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THE CHILD LABOR POLICY OF NEW JERSEY

by

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PREFACE.

The purpose of this monograph has been to give an account of the origin and growth of the policy of New Jersey toward the employment of children. That is understood to mean more than a chronological compendium of the law on the subject. A more explicit statement of the conception of the study, of the plan for its presentation, and of the limitations upon the attainment of the purpose have been given in the introduction.

The field work was done during the summer and fall of 1908. The work on the documents and other records was completed and the whole was written during the winter of 1908 and 1909. It has not been practicable since then for the writer again to visit New Jersey in order to get in personal touch with the present situation. Therefore, the material for bringing the monograph down to date has been secured solely through correspondence.

The writer takes this occasion to acknowledge with gratitude his indebtedness to a number of employers, employees, officers of labor organizations and philanthropic societies, administrators of charity, school and other public officials who have contributed to the making of this study. It would require undue space to name each of these, but special mention should be made of Professors Henry W. Farnam and Clive Day of Yale University for direction in the preparation of the investigation; Commissioner of Labor Lewis T. Bryant for much of his time, for access to the records of his department and for the privilege of accompanying the

deputy inspectors; Mr. Owen R. Lovejoy for access to the files of the National Child Labor Committee, of which he is the Secretary. Acknowledgment is here made also of financial assistance in making the investigation from the Carnegie Institution of Washington. Recognition is also due for much patient assistance by the writer's wife in the analysis and preparation of the considerable amount of statistical data examined for the study.

ARTHUR SARGENT FIELD.

Hanover, N. H., July 1, 1910.

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CHAPTER I.

INTRODUCTION.

Child labor legislation is part of the whole body of legislation for social control that has grown with the consciousness of social relationships and of social influences upon the well-being of individuals and with the humanitarian zeal for removing from such relationships all disadvantage upon individuals. It cannot be fully explained apart from that general body of social legislation. Yet convenience insists that it be examined by itself. This is possible with as little disturbance to conclusions in the case of child labor legislation as for any other part of social legislation, for it has been of more independent origin. The sense of the child's relative helplessness has always been keener than that of the need of adult individuals; and social regulations in the child's behalf have developed faster than those of more general application.

In these days the unfolding of such a code of laws is rightly held to be a complex historical process. An account of child labor legislation should regard it as a growth of social policy reflecting all the influences that operated among a people to commit them to the purpose of the policy and to increase the definiteness of their purpose and the efficiency of the measures of control used to accomplish that purpose. The enactment of the law is but the outcome of the gradual discernment of the need, of agitation by leaders of that opinion, of the slow conviction of the public subject to inertia and vari-

ous conflicting interests. The improvement of the law and the vigor of its enforcement grow only with experience and failure and with the adding of public zeal to public conviction in behalf of the object set out for. The emergence of this social determination and of its increase in wisdom is the very thing of interest, rather than the chronological compendium of the laws which are passed under its pressure.

This aspect of the subject as one of state policy, however, does not imply that there has always been, or indeed even is yet, in the minds of the people or of the legislators a well defined purpose and a clearly worked out plan for carrying it through. Those are matters of growth. When a policy is put forward, not even its promoters have a clear perception of it in all of its parts. And such precision as they might give it is hindered by the necessity of compromise at one point and another with the opponents of the proposal. But there is discernable a constant approach toward a clearer purpose and a more systematic plan, which constitutes a growth of policy.

It may be objected to this view of child labor legislation that a great part of such laws are passed to placate an insistent group of agitators merely, and therefore do not represent a true policy of the whole people, most of whom are indifferent to the matter. There must be recalled here, however, the difference between the people of the state and the government as the agency of the state. The position taken on questions of state policy by those who compose the government may differ from that of the people. How much will depend upon the responsiveness of the government to the opinion and feeling of the people. This difference may be not only in disregard of the people or antagonistic to them, but also in

advance of them. State policies may thus be adopted which at the time lack a universal support, but which gradually receive the full indorsement and active support of the whole people. It is in that connection that many of the enactments of unsupported proposals appear as stages in the rise of a true state policy and get their importance because of that relation to a growth.

Again, the question of policy involves the rejection of proposals as well as their adoption. Hence the absence of universal support, instead of throwing the whole matter out of discussion from this viewpoint, is merely a thing to be noted as evidencing the negative attitude of the people for the moment toward the proposal.

Although it is most desirable to cast an account of child labor legislation in the form of a history of social policy, any such discussion must fall short of revealing the growth of the policy from all of its origins. Every law is recorded for the historian's examination, but not every attempt to make law and, much less, all the information bearing on the origin, the strength, and the practical sense of the agitation for law, and of the public pressure behind its enforcement. Frequently, all that can be discovered is the bare skeleton of the legislation on the matter. As might be expected, much more is possible with the later years in the present case than with the earlier periods.

It will contribute to a clearer discussion from this point of view to inquire here what should properly be considered in a review of a state policy. First to note is the object set out for. In the present case this is usually to fix a standard limiting the conditions on which children may be employed. This is the fundamental question, but not the only important one. When that is agreed upon, there remains

the legal definition of the standard and the mandate concerning it. This is a question of clearness in the law and of proper foresight and provision for the administrative difficulties and incidental effects to be encountered in compelling conformity to the standard. Many a law prescribing a policy has missed its purpose because it failed to define and decree its standard with such precision that all individual lapses from the intended standard could be covered without question by the terms of the law; and many laws have failed of enforcement because the policy of the state, according to the terms of the law, could not be pushed without working results not intended and not desired; and hardly a law has been passed that has not failed in some measure because of administrative weakness through failure to provide against contingences and devices that permitted its evasion. A third factor in any state policy is the provision for enforcement. A standard set up and a legal definition of it with a mandate concerning it will never be more than a pious resolution unless it has adequate provision for carrying it into effect. The provision for enforcement involves the definite location of responsibility for enforcement upon specific officers with ample powers. If a policy be regarded as an endeavor to work definite results, a discussion of the growth of the state's policy toward child employment should note how far each of the foregoing elements, necessary to an effective policy, have been present from time to time. This will often require a degree of detail that might be foregone if the interest were in the standards of the policy alone.

Such an account should include also a measurement of the results secured. How far was the policy actually carried out, and how far was the object actually accomplished? This is the most important part of the account,

for the results desired are the *raison d'être* of the whole policy. It is an unfortunate circumstance, however, of any legislative policy that its effects can hardly, if at all, be distinguished and measured apart from the complex of results following upon the many entangled contemporary forces. More unfortunate still is the undeveloped sense of the importance of and the understanding for making careful current record of evidences which will in time reveal such effect of a policy as it may be possible to distinguish. The want of satisfactory means of determining results is often accepted as reason for abandoning the effort. But the prime importance of answering as far as possible the so-called practical man's question, "What good did it all do?" commands rather that whatever evidence may be at hand shall be carefully measured and its force added to the composition in order to secure the best resultant possible.

The development of child labor legislation in New Jersey falls, chronologically, into four periods which are characterized by their degree of approach to the above noted elements of a clearly defined and vigorously pursued policy. First, there is the early protection to child workers in certain relations which had long been afforded. Second, there is the period from the first act of 1851 to 1883 during which an inconstant and ineffectual beginning was made toward a general policy. A more earnest, more intelligent, yet critically imperfect and poorly supported endeavor fills the third period from 1883 to 1904. Finally, since 1904 a well planned and well executed policy has received general support.

The ambition of this monograph is twofold. First, it hopes to convey to the reader as clearly as possible the conception of the child labor policy of New Jersey as the expression of a truly evolutionary development in the

case of each of the elements of a successful policy; that is, in the case of the standard to be striven for and its definition in the law, and in the case of the administrative provision for enforcing the social will. Whether this object can be better attained by considering all of the features of the policy for each period in turn, or each feature in turn through all the periods, is a question which will be answered according to the individual's habits of mind in grasping the evolutionary significance of historical movements. The writer has chosen to present the matter, except for the earlier periods, in the latter fashion because to him that seems the most illuminating form in which to place it. In the case of the periods before 1883, the attitude of the state is so imperfectly developed that it seems better to carry forward all lines of the narrative at the same time.

CHAPTER II.

EARLY PROTECTION FOR CHILD EMPLOYEES.

Pauper and Apprenticed Children.—Protection to child workers was at first very limited. The right of parents to control their children was unqualified by the public sense, yet to be developed, of the commanding interest of the child's future. This could come only with the improvement in well-being of the family which relieved it from the pressure of immediate necessities and permitted a longer view ahead. It waited also on the wider provision of public schools and such other opportunities for preparing a child for the future as would seem to be a profitable use of his time if unemployed. Thus, while restrictions upon the labor of children designed in the interest of the children were among the earliest enactments of New Jersey's independence, they had but a limited application. One class of these restrictions touched only children who were in some direct manner wards of the state and for whom the state was, on that account, bound to insure a minimum of favorable conditions for their future well-being. These were the regulations for the protection of pauper children let out to work by the poor law officials.[1] Such restrictions extended to all em-

[1] Section 18 of the act of 1774, for the settlement and relief of the poor, requires the indentures of every child apprenticed by the overseers of the poor to contain a clause obligating the master to "cause every such child and children to be taught and instructed to read and write." (*Laws of New Jersey*, Revision of 1821, p. 42.) This, however, was the only restriction in favor of the child.

In 1801 the officers of the multiplying county poorhouses were required to apprentice children in their care on the same conditions

ployments, but were limited to children who were direct wards of the state or its recognized agents. At the same time, however, there was an extension of this protective policy, through features of the regulation of apprenticeship, toward the inclusion of all employed children. This came through the provisions for protecting apprentices against the abuse of unfeeling masters.[2]

The protection to apprentices offered the form of protection to all children employees so far as apprenticeship was the relation of employment for children of the day. But in reality it was always limited and became more so. There was no minimum age at which children might be put to work; there was no restriction on the hours per day or on night work; there was no restriction on the sort of work a child might do. And even the protection offered in the law was not guaranteed by any adequate provision for its enforcement against masters on whom the apprentices might be economically or socially dependent. Consider also the disuse into which the appren-

as the above. (*Public Laws*, 1801, p. 108.) This was reënacted as part of the revised act of 1820. *Pub. Laws*, 1820, p. 166.

When the Mount Lucas Orphan and Guardian Institute was incorporated in 1845, it was empowered to apprentice children entrusted to it to any occupation or employment. But it could not do so, in the case of boys, until they were fourteen years old, or, in the case of girls, until they were twelve years old, and in neither case "until such child, having capacity to learn, shall have been taught to read and write." (*Public Laws*, 1845, p. 107.) This was the first application of a minimum age limit to the employment of children in New Jersey that the writer has discovered.

[2] The act of 1794, prescribing the legal status of apprenticeship, provides in section 5 for redress to any apprentice against a master who is "guilty of misusage, refusal of necessary provision or clothing, unreasonable correction, cruelty, or other ill treatment." In case of such a grievance, the apprentice might appeal to a justice of the peace who might decree as the "equity of the case" might require, subject to appeal to Quarter Sessions. *Laws of New Jersey*, Revision of 1821, p. 366.

ticeship system increasingly fell, and the inadequacy of the apprenticeship laws to protect the child workers of the day is apparent. Apprenticed pauper children must have fared even worse than others. For the interest of the overseers of the poor and of the poorhouse officials to be rid of the expense of keeping their charges made them indifferent about securing for children apprenticed by them the protection which the law provided.

While the actual protection enjoyed by pauper and apprenticed children thus was very meagre, it should be noted in passing that in these regulations concerning them the policy of state interference with the employment of children in the interest of the child's future was recognized in principle in the law.

Factory Children.—The factory system opened an enlarging opportunity for the labor of children in manufacturing employments outside the home, and at the same time weakened the apprenticeship arrangements through which alone the law offered its meagre protection to the child worker. The new conditions called for new legislation if the state was to continue and to develop the policy of safeguarding the future interest of employed children. A seeming acknowledgment of the need and an apparent attempt to continue the policy under the changed conditions are suggested by a provision in an act of 1816. This law, designed to encourage the development of manufacturing, was enacted for a period of five years and provided general terms of incorporation for enterprises in certain specified lines of production. By section 9 of the act, the officials of factories incorporated under this law were required to have the children employed by them, whether bound by indenture or parole agreement, instructed in reading, writing, and arithmetic at least one hour each day; to give due attention to their

morals; and to see that they regularly attended some place of worship on Sunday, when within convenient distance.[3] This measure merely provided a minimum educational opportunity for child workers. It said nothing as to hours of labor, and it made no restriction on the labor of children in the dangerous iron trades or the unhealthful lead industries, both of which it sought to develop. Yet even this concession to the policy was short-lived, for in 1819 the incorporation law was repealed before the expiration of the five years. Henceforth until 1851 no measure passed the legislature for restricting in any way the employment of children in any occupation or industry.

Child Labor Conditions Before 1851.—With the growth of manufacturing the employment of children in manufacturing increased in New Jersey as in other manufacturing states. There is little reliable information, however, as to the number of children who came thus to be employed in the early and middle parts of the century. Two contemporary estimates have come to hand. According to one, there were in the cotton industry in 1831 as many as 217 children under twelve years of age. These constituted 4 per cent of all cotton mill operatives.[4] On that basis the number under fourteen,—the common age limit at present,—must have been a large proportion and the number under sixteen very considerable. Another estimate in 1845 for the amount of child labor at Paterson in that year gives 2327 males and 2301 females under sixteen. This totals 4628 children under sixteen, which was 42 per cent of all employees.[5]

[3] *Pub. Laws*, 1816, p. 21.

[4] Committee on Manufactures of the New York Tariff Convention in 1831, quoted in Gordon, *Gazateer of New Jersey*, 1834, p. 39.

[5] *Fisher's National Magazine*, Vol. I., p. 459. This was supplied to the writer by Mr. J. K. Towles.

But these figures are suspiciously large to accept without corroboration. It would seem probable, however, that the employment of children was becoming a matter of importance to the state.

And yet there is nothing in this evidence, or are there any implications in other indirect testimony that the writer has seen, which indicates that children of such tender age as had been found in the mills of England were employed in New Jersey in noticeable numbers. There was no class of permanent wage earners who, shut in by an unescapable and relentless competition with each other, were driven to exploit their children at the earliest year possible. Children worked as soon as they could. but not in factories. The number and proportion of young children employed in factories was undoubtedly increasing, but it is not probable that the number under ten years of age was noticeable.

CHAPTER III.

SPASMODIC BEGINNING OF A GENERAL POLICY.

Growth in Law: Child Labor Law of 1851.—In the late forties the sentiment in favor of restricting the employment of children appears to have reached important strength,[1] and to have urged an extension of the policy to all factory children. This was part of a general agitation for reform directed at several objects of complaint. In 1848 two petitions were presented to the legislature praying that the hours of employment for children be limited to eight a day and that employers be required to give them opportunity to obtain a common school education.[2] These contained, however, no demand for the entire prohibition of child employment below a minimum age. No attention was given to the petitions. In the following year four petitions with the same request were presented to the House.[3] The committee on judiciary, to which they were referred, reported a bill declaring ten hours to be a legal day's work in certain specified industries, prohibiting the employment of any "minor or adult" more than ten hours a day or sixty hours a week, and forbidding altogether the employ-

[1] See provision in the charter of the Mount Lucas Orphan and Guardian Institute in 1845, above, note 1, p. 8.

[2] *Minutes of House of Assembly*, 1848, p. 382. This request was coupled with one for a general ten hour day, which was agitated by the workmen of the time. The same was true for the petitions in the succeeding years noted below. The bills eventually introduced also provided both for a general limitation of hours and for a restriction upon child labor.

[3] *Min. House of Assem.*, 1849, pp. 279, 466, 483, 494.

ment of children under twelve years of age.[4] But before reaching a vote, it was postponed to the next legislature.[5]

In 1850 petitions to the number of three were again sent to the House[6] and the bill of 1849 was introduced anew.[7] But disagreement between the House and Senate prevented its passage.[8] Meanwhile the reform movement was gathering headway. The state campaign in the fall of 1850 was hotly contested on the issues of that agitation, of which the demands of the workingmen were a part.[9] The outcome was a narrow victory for the Democrats, who advocated the reforms[10] The legislature of 1851 accordingly carried through the program, in which was a bill restricting the employment of children.[11]

[4] House Bill 128, 1849.

[5] *Min. House of Assem.*, 1849, pp. 1003-4. The vote on postponement was 33 to 20.

[6] *Min. House of Assem.*, 1850, pp. 100, 131, 414.

[7] House Bill 23, 1850.

[8] The House passed the measure promptly after some amendment. (*Min. House of Assem.*, p. 505.) But the Senate, with other amendments, struck out the prohibition of the employment of children below the minimum age. That took the heart out of the bill and the House refused to concur. The Senate postponed further consideration until the next year. *Min. House of Assem.*, pp. 611-12; *Senate Journal*, p. 382.

[9] See files of the *Trenton Daily True American*. The issue of November 5, 1850, contains a statement *seriatim* of the issues at stake.

[10] *Trenton Daily True American*, Nov. 16, 1850.

[11] The message of the new Governor, George F. Fort, was full of suggestions for correcting evils complained of at the time. Monopolies, the election instead of the appointment of the judiciary, land speculation and engrossment, property qualifications for the franchise, as well as labor legislation, were some of the subjects discussed. On these he advocated reform measures which he thought would "rectify many antiquated wrongs, restore to the people those rights and privileges of which they had been long deprived, ameliorate their condition in all the relations of life, impart a new and salutary impetus to the progressive tendencies of the age, equalize the burdens as well as the advantages of govern-

The bill of 1851[12] was the same as those introduced in preceding years, except that it abandoned the compulsory ten hour day for adults. As enacted, the provisions pertaining to children were amended in their application so as to include children in "any factory."[13] As to these it forbade that any minor should "be admitted as a worker" under ten years of age and limited the hours for all minors in factories to ten a day and sixty a week. To enforce the law it provided a fine of $50 for each offence, "to be sued for and recovered in an action of debt, in the name of the overseer of the poor," for the benefit of the minor.[14] The following year an attempt was made to define the indefinite thing called a factory by declaring it to be "any building in which labor is employed to fabricate goods, wares, or utensils."[15]

This enactment was quite inadequate for its object. The age limit was probably too low to affect any import-

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ment, elevate the character and moral power of the state, and give peace and concord to our glorius union."

Concerning child labor, he said, "Infant laborers in factories should also be protected from such excessive exactions as are calculated to destroy their physical and mental capacity for health and usefulness." Then referring to the consequences of child labor in England, he added, "It is our duty to guard against the occurrence of such evils within our jurisdiction." (*Message*, pp. 10 and 11.)

The *Trenton Daily True American* of May 15, 1851, had the following eulogy of the legislature of 1851. "You have removed the ancient landmarks of feudalism. No longer will your children be compelled to run riot in ignorance on account of your poverty. No longer will the merciless creditor deprive you of the power to pay demands and rob your family of the very means of obtaining a subsistence. No longer will your capacity to sit upon a jury be measured by the value of your property."

[12] House Bill 84, 1851.

[13] The original application was only to cotton, woolen, silk, paper, glass and flax factories.

[14] *Pub. Laws*, 1851, p. 322.

[15] *Ibid.*, 1852, p. 63.

ant number of children. It is doubtful if, with a full enforcement, it would have seriously altered the practice. Moreover, the wording of the prohibiting clause permitted easy evasion. No provision whatever was made for determining accurately the age of any child which was brought in question. The age for the restriction of hours—twenty-one years—was unenforceably high for that day. And more than all, the provision for enforcement was totally weak. No one in particular was charged with bringing prosecutions or seeing that they were brought. Violation of the act was not made a misdemeanor or crime, so that prosecution might be brought by the ordinary prosecuting officers. The only officer mentioned with the enforcement was the overseer of the poor, in whose name the fine was to be sued for. But even he was not required to bring suit, although possibly it was understood that he would do so. It is not surprising that, of a measure of such limited pretensions and more limited potency, it should be recorded that no opposition appeared in the legislature.[16] Yet it made one achievement. It committed the state for the first time to the policy of controlling the employment of children under their modern relations of employment.

It remains only to say that this imperfect act continued until 1883 the only formal declaration of the state on the employment of children. The only change was one in 1876 which made the restriction on hours more enforceable, though to no result, by altering its application to those children only who were under sixteen years old.[17]

Compulsory Attendance Law of 1874.—With the strengthening of an interest and ability to provide for

[16] Trenton correspondent of the *Newark Advertiser*, Mar. 13, 1851. Quoted in *Rept. of Bureau of Statistics*, 1885, p. 264, footnote.

[17] *Pub. Laws*, 1876, p. 306.

the future of children, there came naturally an agitation for coercive state action in their education. Considerations of school efficiency, as well as regard for the child, induced the school officials to lead in urging this proposal.[18] After the public schools were made uniformly free in 1871, the economic excuse of parents for keeping their children out of school was so far weakened that the resistance to the proposal was diminished.[19] Out of this agitation came the act of 1874.[20] This required every child between the ages of eight and thirteen years to attend some public or private school at least twelve weeks every year, six weeks at least to be consecutive, or to be instructed at home at least twelve weeks in the various branches taught in the public schools. Exemption was made of those physically or mentally unfit and also, by a proviso to the penalty clause, of those cases in which the parent was "unable, by reason of extreme poverty, to comply with the requirements of the law."

Observance and Results: The Child Labor Law.—The act of 1851 never had any force. It even appears to have been forgotten. At any rate, the school officials through-

[18] See *Reports of State Superintendent of Public Instruction.*

[19] In his report for 1871 the state superintendent took cognizance of the agitation and went so far as to say that the time would undoubtedly come when such a law would be demanded; that, having provided by taxation for free schools, he deemed it due to the taxpayers that, by further enactment, a full attendance of children should be secured during the school term. (P. 18.) The proposal received attention in 1872 in the message of Governor Randolph, who, however, opposed any compulsory law as conferring upon the state a power which "will almost inevitably precede the more inquisitorial guardianship, and more dangerous encroachments, as regards individual affairs." He thought it necessary to "bear for the time the deprivations and losses ever incident to the popularization of never so good a cause." *Messages and Official Papers*, p. 225.

[20] *Pub. Laws*, 1874, p. 135.

out the state, though complaining frequently of the employment of children as a reason for non-attendance at school, never refer to that law.[21] Whether forgotten or not, its age limit was too low to have any important effect on the employment of children. A more significant comment on the observance of the law was that of Governor Joel Parker who, in his inaugural address in 1872, said there was reason to believe that the act of 1851 was often disregarded. He recommended a legislative investigation into the conditions of child labor.[22] Other testimony collected is as indefinite as this and is less trustworthy. On the whole, it testifies to a conviction, on the part of those in a position to observe, that there was a very noticeable amount of employment of young children, but conveys only scanty information on the lower ages of child employees and indicates nothing at all as to whether the number under the age limit of ten years was noticeable.

Continuous and comparable statistics upon the number of children employed throughout the period of the act of 1851 do not exist. But some figures are at hand for the silk industry, which had a marvelous growth during the decade 1870 to 1880.[23] The data are from such different sources that the figures in the second column are not all comparable with each other and not at all comparable with those in the first column. But they point to a marked increase in the number of children employed, although the indefinite age group signified by "youth" and "children" destroys any significance for the observance of the law. Yet, from the data for this one industry, the inference is plausible that a large number

[21] See *Rept. State Supt. Pub. Instr.*

[22] *Inaugural Address*, 1872, p. 12.

[23] See Twelfth Census, *Manufactures*, Pt. II, p. 543.

TABLE I.

CHILDREN IN SILK INDUSTRY.[1]

	"Youth"[2]		"Children"	
	Number	Per cent[3]	Number	Per cent[3]
1870	1386	20	....	..
1874	....	..	1428[4]	26
1875	4535	25	2130[4]	25
1879	....	..	3763[5]	28
1880	5550	17	....	..
1881	....	..	3489[6]	25

[1] Arranged from data in *Repts. Bur. of Stat.*
[2] *Rept. Bur of Stat.*, 1881, p. 151. Source unnamed.
[3] Computed by writer.
[4] For year ending Dec. 21, quoted in *Rept. Bur. Stat.* 1879, p. 106. Source unnamed.
[5] Returns from 106 establishments, *Ibid.*, 1880, p. 82. The report for 1879 printed (p. 106) returns from 55 employers, showing 3648 "children" comprising 35 per cent of all employees. But the later figure is more comprehensive.
[6] Returns from 105 establishments, *Ibid.*, 1881, p. 143-145.

of young children, even if over ten years, must have been employed, and evidence for the close of the period supports the inference.[24]

The figures for the censuses of 1870 and 1880 show the following increase in the number of children employed under 16 years of age.[25] This shows that the number of such children employed increased nearly 100 per cent in the decade, although the general increase in the wage earners employed in manufacturing kept the increase in the proportion of children down to 17 per cent.

TABLE II.

CHILDREN UNDER SIXTEEN
1870-1880.

	Number	Per cent of Total Employees
1870	6,239	8.2
1880	12,157	9.6

[24] See below page 23 *et seq.*
[25] Twelfth Census, *Mfrs.*, Vol. II, p. 540.

The Compulsory Attendance Law.—A side light on the employment of children is thrown from the statistics of school attendance.[26] The following figures, compiled from

[26] Such statistics have significance partly because the employment of children is one important reason for the non-attendance of children at school. It was later found at Trenton that about half of those withdrawing from school did so to go to work. (See below, p. 181). But this line of argument may not be followed too closely, for there are other causes of non-attendance and irregular attendance besides employment. The value of such a side light is further lessened by the fact that the law under consideration applied only to factory employment. So that a child might be out of school for any one of several employments,—as many were in agriculture,—and still not violate the law. Yet school attendance is significant in this matter for another reason independent of these qualifications. A community which fails to keep its children in school during their early years displays an indifference to the future of the children or a present necessity, either of which puts them early to work, and that too in a factory as well as in other occupations. The conditions as to school attendance during the period thus become of sufficient interest to note briefly.

The most desirable data would be those for the percentage of enrollment of all children in the population, under the age limit for employment. Those are not available. Such figures are furnished for the whole population within the school age, seven to eighteen years. But the figures are dependent on the returns of the school census, which is too unreliable to bear usage for this purpose. The state school tax was apportioned among the counties according to the assessed valuation of property, while the funds when raised were distributed according to the census of school children in the county. The motive to pad the census returns was irresistible. Then also the appointment of enumerators was made by local officials and their work was subject to no central supervision until well into the next period. Between incompetent enumerators, unorganized methods, and an inducement to local padding, the returns are too suspicious to be significant for the present purpose. For the whole effect upon enrollment due to changes in the employment of children, or due to better enforcement of attendance, might be multiplied or even more than negatived in the percentages of enrollment by errors from those sources. The reports of the State Superintendent of Public Instruction contain discussions of this inacccuracy showing improbable variations in the returns amounting to as much as 12 per cent. *Report for 1885*, p. 18. See also 1875, App., p. 17; 1892, p. 4; 1895, App., p. 17.

the annual reports of the State Superintendent of Public Instruction, show the percentage which the average daily attendance was of the total enrollment in the public schools in eleven cities of the state. The data are too incomplete and uncertain to permit an average for all the cities, so they are given, such as they are, for each city. The large influence of other factors, besides the

TABLE III.

PERCENTAGE OF AVERAGE DAILY ATTENDANCE OF TOTAL ENROLLMENT.[27]

Year	Bayonne	Elizabeth	Hoboken	Jersey City	Newark	New Brunswick	Paterson	Trenton	Camden	Bridgeton	Millville
1857	....	45.5	72.0	27.6	37.2	....	52.9	49.4	44.0	85.2	....
1858	....	44.6	49.5	35.9	42.9	....	....	49.4	43.2	90.0	36.2
1859	....	56.5	47.5	35.5	46.7	....	56.7	63.4	48.6	64.3	36.1
1860	....	....	....	....	....	....	....	....	....	....	....
1861	45.2	55.4	50.0	41.5	49.0	51.8	47.0	56.6	55.6	54.7	40.1
1862	47.7	55.5	50.8	39.1	55.6	49.6	53.0	73.2	....	61.4	44.3
1863	49.8	57.5	41.6	37.0	49.8	....	60.0	85.8	60.5	68.4	47.2
1864	....	43.9	37.4	38.0	49.8	50.7	61.3	....	....	....	48.2
1865	....	....	....	....	....	....	....	....	....	....	....
1866	....	....	....	....	....	....	....	....	....	....	....
1867	....	....	....	....	....	....	....	....	....	....	....
1868	51.4	50.8	46.5	41.4	....	60.9	79.3	....	....	61.2	....
1869	42.4	51.5	45.0	41.3	58.1	58.3	56.6	80.4	67.3	66.9	53.0
1870	48.7	42.4	50 3	45.1	57.7	58.8	57.1	59.6	64.2	58.6	40.9

Next in desirability to the percentages of enrollment are the percentages of attendance. An improvement in the regularity of attendance would be cognate with a lessening of employment of young children, though the amount of the former can indicate nothing as to the amount of the latter.

[27] Compiled, under direction of the writer, from the annual reports of the State Superintendent of Public Instruction.

employment of the children, upon the regularity or intermittency of attendance at school, forbids any close reasoning on such data as this. In the present case, the prohibition is the more complete because of suspicious variations in the percentages from year to year. But it unquestionably indicates a situation with reference to provision for the future of children in which the employment of young children would be rife.

The agitation and passage of the compulsory attendance law of 1874 tended to improve these conditions. But circumstances combined to reduce the effectiveness of that measure. In the first place, it was inherently weak. The exemption from the penalty on account of poverty, however justifiable it may have appeared, took the force out of the act for most of those with whom the purpose of the law was concerned. And besides this, it was not made the duty of any specific person to see that the law was observed.[28]

In addition to its inherent weakness, three considerations in its operation tended to its neglect. Most of those compelled to attend would do so only for the prescribed time of twelve weeks. This would result in such a coming and going of pupils that the work of instruction would be seriously impaired. Again, the enforcement of the law would cause an influx of unwilling and incorrigible pupils who could be cared for only by special provisions, which most communities were unwilling or unable to furnish.[29] That these were not complained of more fre-

[28] This defect was noted by the Superintendent of Public Instruction in his discussion of the law. See *Rept.* 1874, p. 17.

[29] In 1872, when the compulsory law was being agitated and before it was passed, the superintendent of schools for New Brunswick said it would be necessary, before passing a compulsory law, to permit or require cities and towns to establish an ungraded reformatory school for truants and incorrigibles. *Rept. Supt. Pub. Instr.* 1872, App. p. 7-8.

quently was probably due to the fact that no pretense was made at enforcing the law. Finally, the rock on which it was actually wrecked was the unwillingness or inability of local boards to provide the additional accommodations for the additional pupils. Most of the larger towns and cities were already behindhand in providing for those children who were willing to attend. To enforce the attendance of those still unschooled would have involved a bonding and taxing which many communities would not and some could not stand. Complaints of this difficulty became increasingly frequent.[30] The sentiment in favor of compulsory attendance was not yet strong enough to induce people to pay the cost.

Yet in spite of these strongly deterrent influences, there seems to have been some improvement with the passage of the law. The following table gives the total enrollment, the average daily attendance, and the percentage of the latter upon the former for twelve of the principal manufacturing centers of the state.

It will be seen that each of the first five years has a percentage of attendance close to that of the average for them all; that from 1876 the yearly percentage shows a marked rise and remains close to the average for the remaining five years. This rise of average attendance between the two periods of nearly five points followed the enactment of the law after one year, during which

During the year 1874-1875, it was attempted to meet this want for Newark in the establishment of the Newark City Home at Verona, about eight miles north of Newark. But the Superintendent at the time said that it afforded only about half the needed accommodations. (*Rept. Supt. Pub. Instr.* 1875, App., p. 14.) This school has since been developed as an important part of the present model provision by Newark for the enforcement of the compulsory attendance law.

[30] See *Message of Gov. Parker*, 1875, p. 7; also *Repts. Supt. Pub. Instr.*

TABLE IV.

PERCENTAGE OF DAILY ATTENDANCE OF ENROLLMENT 1871-1880.[31]

Year	Total Enrollm't	Ave. Daily Attend'ce	Per Cent	Year	Total Enrollm't	Ave. Daily Attend'ce	Per Cent
1871	55,876	31,771	56.8	1876	69,884	41,250	59.0
1872	60,093	32,376	54.9	1877	71,681	42,592	59.4
1873	60,699	32,281	53.3	1878	74,164	45,069	60.8
1874	65,203	37,235	56.2	1879	75,732	45,471	60.1
1875	67,357	36,982	54.9	1880	77,783	47,045	60.5
For 5 yrs.	309,228	170,648	55.3	For 5 yrs.	369,244	221,427	60.0

there was a fall of 1.3 points. On the whole the law would seem to have had some effect upon the regularity of attendance.

Conditions at the End of the Period.—How little effective during this period had been the policy of the state in behalf of its children may be seen in the conditions at the time of the agitation and passage of the law of 1883. First as to the number of child workers. The Bureau of Statistics of Labor and Industry made in 1880 a fairly comprehensive inquiry into the manufactures of the state. The returns from 734 establishments showed 10,002 "children" employed, who comprised 17.3 per cent of all the employees in those establishments.[32] The United States census of manufactures for the same year showed 12,152 children under sixteen years, comprising 9.6 per cent of all employees.[33] The difference between these is due probably in chief part to the fact that the Bureau of Statistics returns were only from the larger factory estab-

[31] Compiled, under the direction of the writer, from data in the reports of the Superintendent of Public Instruction.

[32] Compiled from tables, pp. 73 to 155.

[33] Twelfth Census, Vol. II, *Manufactures*, p. 540.

lishments, while the census included all the smaller enterprises, in which the possibilities of business organization do not permit as many children to be used as in the larger establishments.

These figures show that a large number of children were employed, but indicate nothing as to the lower ages of the children, or as to whether the law was observed or not. The Bureau of Statistics for several years printed returns from employees bearing on these points, but the number reporting was too limited and the figures are otherwise under suspicion. The most comprehensive and probable are those in the report of 1880.[34] Employees from 137 different establishments reported 4871 children between ten and fifteen years employed where they were and 476 children under ten years of age. Comments from wage earners in the report of 1881[35] contain frequent assertions that children seven, eight, and nine years old were at work. These figures are not safe within even a considerable margin of their exact amount. But it may be safely concluded from them that a considerable number of children under age were employed.[36]

Some further light on the lower ages of child workers is obtained from an investigation of factory children in 1884. The act of 1883 provided for a factory inspector. In the discharge of his duties during 1884, he made a

[34] Pages 34-36.

[35] Pages 97-100.

[36] The absence of any indication as to how the ages of the children reported were known to the employees reporting them admits the possibility that the statements were made merely on the appearance of the children, a basis which is unreliable at best, and exceedingly treacherous when used by those inclined to overstate the facts. This is strengthened by the frequency of round numbers in fives and tens among the returns. But, on the other hand, the fellow-employees of the children are best situated of all persons for making an estimate without positive evidence for each one.

careful inquiry into the condition of child employees. He found[38] that the average age at which they had gone to work was nine years. As a rule they had been sent to school to about their sixth or seventh year and had been taken out two years later to work. Almost all the children at the time they were examined by the inspector said they were between twelve and fifteen years old. But it should be considered that the act of 1883 had raised the age limit for boys to twelve and for girls to fourteen and that many actually under those ages would claim to be of the new minimum age. Against this claim is the testimony of the children showing that the average age at which they began work was nine years. It is highly improbable that during the three to six years since these children had begun to work,—from age nine to age twelve or fifteen,—the accretions to the force of child workers from the youngest ages had so far and so suddenly diminished that only a negligible fraction of those then employed were under the legal minimum.

As to the hours of employment for children, the reports of the Bureau of Statistics show that the ten hour day, or even less, had become nearly universal as the scheduled working day. But a great deal of overtime was worked, so that practically the hours were longer. This overtime affected the children as well as the older employees. Of the 137 establishments reported by employees in 1880, only eleven were working regularly more than ten hours a day.[39] But 43 of the 137 were reported as working children overtime more or less. Similar returns from employees in 1881[40] included statements of the

[38] *Rept. Insp. Fact.* 1884, pp. 14-19.

[39] Almost all of these ran eleven hours. Only nine were reported as regularly running more than 60 hours a week. Two of these ran 62 hours, two 64 hours, four 66 hours, and one 72 hours.

[40] *Rept. Bur. Stat.* 1881, pp. 8-9.

average number of hours worked during busy seasons. The averages for the following child employing industries were reported thus: cotton mills, 11 1-4 hours; silk mills, 10 1-5; woolen mills, 10 11-13. The report says that the hours were longest in those industries where women and children were largely employed.[41] In his investigation of 1884, the factory inspector found that all the children questioned had been accustomed to work ten hours a day, and many of them thirteen hours and over through overtime. Fourteen hours was in some cases the time worked, the excuse being that the extra time was allowed off their Saturday labor.

The illiteracy of the child employees as reported by the inspector corresponded to the other facts. In 1883 he wrote "many of them had never been inside of a school room . . . Not a few of these were unable to give the name of the state in which their places of residence were located."[42] From his investigation of 1884 he concluded "Not 2 per cent know anything about grammar or have ever been taught any . . . The vast majority could not spell words of more than one syllable, and very many could not spell at all. About 10 per cent could answer questions in simple multiplication. Of the remaining 90 per cent, the majority could not add up the smallest numbers. At least 90 per cent know absolutely nothing about simple geographical and historical questions. The number able to read and write, in a distinguishable way, was shockingly small, and very many could neither read nor write even their own names. Very few of these children, the majority of whom were born in the United States, ever heard of George Washington. Over 95 per cent never heard of the Revolutionary War, Abraham

[41] *Rept. Bur. Stat.*, 1881, p. 6.
[42] *Rept. Insp. Fact.*, 1883, p. 9.

Lincoln, the Civil War, Governor Abbett,[43] or President Arthur. At least 60 per cent never heard of the United States or Europe. At least 30 per cent could not name the city in which they lived, and quite a number only knew the name of the street where they were housed. Many who had heard of the United States could not say where they were . . . Ninety-five per cent could answer no question about other states or cities of the United States."[44]

Illuminating testimony to the ineffectiveness of the law is given in the report of the inspector for 1884.[45] In response to circular letters sent to employers notifying them of the laws, new and old, placed under his jurisdiction for enforcement, he found that in nearly all cases the replies expressed "an utter ignorance about the ten hour and other acts . . . Some of these laws have been on our statute book for years . . . and yet few had any knowledge of them and their observance was the exception."

The evidence reviewed with regard to the results of the policy during this period does not offer a very definite measure of the success. Yet these conclusions may be stated. There was a very considerable increase in the number of children employed in manufacturing. This was part of the industrial development of the state and the rise of manufacturing cities. It would appear also that the employment of very young children increased greatly in numbers, and probably proportionately, although no statement concerning the latter can be made

[43] Then Governor of New Jersey.

[44] *Rept. Insp. Fact.*, 1884, pp. 17-18. The allegations in this respect were questioned. To this the inspector replied in his next report that the facts were, as a matter of fact, even worse than reported. *Rept.* 1885, p. 9.

[45] Page 10.

with certainty. The number of children employed under ten years cannot be stated, but the evidence is ample to show that the law of 1851 had no effect in restricting such employment. There was some improvement in the school attendance, but not enough to indicate any effect on child employment.

The period as a whole does not reveal much approach toward a definite policy. The sentiment in behalf of restricting child employment was neither intense enough nor constant enough to swing the power of the state steadily toward a consistent course in the matter. The act of 1851 was passed on a wave of reform which subsided before the more compelling interests of the war and the industrial development that followed. In these events the law was all but forgotten. The course of child employment was left to the free play of economic influences alone. When the sentiment against it was revived toward the end of the seventies, the advocates of restriction had to build up from the ground, except for the foundations in the precedent which had recognized the principle of a policy of restriction.

CHAPTER IV.

LIMITED AND UNINFORMED PUBLIC SENTIMENT

1883 TO 1904.

The Child Labor Law of 1883.—With the close of the seventies there began to appear an agitation for a more vigorous policy toward child employment. This found its leaders among those of the wage earners who became active at that time both for organization and for legislation on their own behalf. One of the earliest fruits of the labor agitation was the establishment of the Bureau of Statistics of Labor and Industry in 1878. From the first, the chief of this bureau gave sympathetic attention to the demands of the wage earners and attempted to conduct investigations into the facts bearing on their proposals. Part of this attention was given to child labor. The early reports are full of fragmentary data, discussions of the evils of child employment, and pleadings for effective legislation.

The agitation soon appeared in the legislature. In 1880 a bill was introduced into the House of Assembly to raise the age limit to twelve years and to strengthen the enforcement of the act of 1851.[1] This received some consid-

[1] House Bill 146. This would have been ineffective. It merely substituted the word "twelve" for the word "ten" in the earlier law, leaving unchanged the loose phraseology of the prohibiting clause. To strengthen the enforcement, it made the overseers of the poor,—in whose name prosecutions were to be brought,—subject to a penalty of $25 for failure to prosecute cases when called to their attention.

eration in the House, but it never reached a vote. The interest of the public at large does not seem to have been very great. At least no mention of the bill, or of any public discussion of it, could be found in either of two leading newspapers of the day. In 1881 the same bill was introduced again.[2] This time it passed the House, but was never reported from committee in the Senate.[3] It assumed enough importance this time to win bare notice, but no comment, from the newspapers. When the legislature met in 1882 a new and much more thorough bill was introduced.[4] The most distinctive feature was the provision, though an imperfect one, for an inspector of factories. The details in which its provisions were framed would probably have proved very ineffective. Yet, when compared with anything that had been offered, the bill shows a much more thorough understanding of the administrative problem involved. And, besides, it took very advanced ground on the matter of hours for women and minors. The bill passed the House easily,[5] but was so

This penalty was to be recoverable in an action of debt. But no particular person was charged with bringing such action. It was left to "any citizen", whose only inducement to trouble himself about the matter, aside from any interest he might have in seeing the law observed, was half the penalty recovered.

[2] House Bill 235.

[3] *Min. House of Assem.*, 1881, p. 729.

[4] House Bill 184. This provided for a twelve year age limit which was to apply to mercantile employments as well as to those of manufacturing and mining. The employment of children between the ages of twelve and fifteen was to be conditioned upon their having attended school for at least twenty consecutive weeks during the twelve months preceding employment, and upon their furnishing their employers with certificates from their teachers designed to witness to such attendance. The hours for minors under twenty-one years and for adult women was limited, in the employments prescribed, to ten hours a day and sixty a week. Penalties were provided for both employers and parents who violated the act.

[5] *Min. House of Assem.*, 1882.

amended in the Senate[6] that the House could not concur and abandoned the measure.[7]

It is deserving of notice that even this was a gain for the agitation over the existing law. It raised the age limit to twelve years. It recognized the device, though in a crude form, of documentary evidence that the minimum age and other conditions of employment are complied with. And even in the matter of enforcement, the county superintendents might reasonably be expected to show more energy than the overseers of the poor, although they would fall far short of a uniform and thorough administration of the law. Possibly it was the expectation of such an outcome that induced the opponents of the bill to concede the other features. But in any case the concessions were now a matter of record to serve as precedents for further agitation.

These details are of interest as showing the progress in the agitation for a more effective child labor law. The impotent measure of 1880 did not have support enough to get through the House. In 1881 it had strength to pass the House, but promptly succumbed in the Senate. By 1882 a measure which its friends hoped and its opponents feared would be much more effective than its predecessors, not only passed the House with scarcely any opposition, but commanded the time of the Senate on several occasions, and survived the opposition there in a form which expressed a measurable advance over the effective aspirations of either the existing law or the preceding bills. Yet another year was required before

[6] *Senate Journal*, 1882, pp. 879, 931.

[7] *Min. House of Assem.*, 1882, p. 1001. The friends of the bill regarded the amendments as fatal, especially in putting the enforcement in the hands of the county superintendents of schools, instead of with a factory inspector, as provided in the House. See *Newark Daily Advertiser*, Mar. 28, 1882.

the pressure of the agitation was sufficient to put through what was thought to be a workable law.

When the legislature met in 1883, interest in the proposed legislation had grown much. The *Newark Daily Advertiser* said editorially that the prospects for an act were "excellent"; that the arguments for it were "innumerable and of great force and only extreme selfishness has prevented an enactment long ago."[8] The same paper, a year later, said it was a "pressure of public opinion" that secured the passage of the act.[9] The progress of the bill was noted in the newspapers, at least one of which showed sympathetic interest and reported the debates upon it in some detail.[9a] The greater interest is further indicated by the fact that both branches of the legislature had child labor bills before them. Yet the leaders of this interest, the men who stirred things up and lobbied for the measure, appear to have been the labor leaders of the day.

The bill introduced into the House[10] was less radical than the amended bill turned out by the Senate the preceding year. It embodied one idea, however, of administrative value. It required employers to keep a certificate of age, signed by some member of the local school board, for every child under sixteen years old. Such a certificate, merely, would have been of only partial effect. But the feature of an employer's register for all children within a prescribed zone above the minimum age has, in its later forms, been an effective aid to the enforcement of the law. This bill passed the House without amendment.[11]

[8] Jan. 11, 1883.

[9] Mar. 5, 1884.

[9a] *Newark Daily Advertiser.*

[10] House Bill 18.

[11] *Min. House of Assem.*, 1883, p. 260.

In the Senate it was put off repeatedly and then indefinitely,[12] being supplanted by the Senate's own bill.

The Senate bill[13] underwent several lengthy and heated debates, resulting in some important amendments, but finally passed[14] and was quickly put through the House without further change.[15] This law[16] applied only to mining and manufacturing, although the original bill included mercantile employments also. It fixed a minimum age limit of twelve years for boys and fourteen for girls, in spite of efforts to reduce the age to twelve for both. For children between these minima and fifteen years, it prescribed twelve[17] consecutive weeks of attendance at some public or approved private day or night school, provided. where necessary in the case of orphans, the guardian might get from the inspector a permit for employment without such attendance. Those children were required to bring to their employers from their teachers certificates of such attendance. The enforceability of the age limit, however, was completely destroyed as against deceitful parents and willing employers by a proviso added to the section on penalties that "a certificate of the age of the minor, made by him or her and by his or her parent or guardian at the time of employment, shall be conclusive evidence of the age of such minor upon any trial for the violation of this act." On the matter of hours, the original provision fixed the limit for all minors and for women at not over ten a day or sixty a week. It was then attempted to remove all restriction except for minors under sixteen years. Then

[12] *Senate Journal*, 1883, p. 648.
[13] Senate Bill 64.
[14] *Senate Journal*, 1883, p. 362.
[15] *Min. House of Assem.*, 1883, pp. 555-6.
[16] *Pub. Laws*, 1883, pp. 59-61.
[17] The original provision was for twenty weeks.

the whole matter was stricken from the bill, but was later returned and, as finally enacted, limited hours for children under fourteen to "an average" of ten a day or sixty a week. One inspector was provided for, as in the bill of 1882. But, unlike that bill, his appointment by the Governor was made subject to approval by the Senate, his salary was fixed at $1200 instead of $1000, and the limit to his expenses was placed at $500 instead of $300. This provision for inspection was at one time supplanted by an amendment giving the enforcement to the county superintendents. The clause providing an inspector was said to be the only part objected to in the final bill.[18]

The discussion brought out the usual arguments for and against such a proposal. The strength of its defenders lay in the argument from the experience of England, which was frequently cited by general reference. But no specific or accurate data were given on the condition of child labor in New Jersey, nor was a detailed analysis of the effects of child labor in England shown as evidence of the need of preventive legislation. Sentiment, justified by experience but uninformed on the reasons for its justification, and the growing political importance of organized labor, were the most convincing arguments in behalf of the bill. The opponents similarly had little in point to offer. The necessities of the widow and orphan were the strongest argument they presented. The arguments from the experience of England were unanswered except to say that "they did not apply to conditions in New Jersey." But what the difference in conditions was and why the lessons from England did not apply, it was not attempted to make plain. The most conspicuous objection was that the measure would cripple industry. That

[18] *Newark Daily Advertiser*, Feb. 14, 1883.

it would do that in the least degree was held conclusive as against the claims of its advocates.

This act was the utmost that New Jersey could do after four years of agitation. To many of that day it appeared to be a great achievement. Senator Stainsby, the leading defender of the bill before the Senate, thought it was one of the most important bills ever brought before the legislature.[19] The *Newark Daily Advertiser* reported that it was believed that the bill was "strong and sweeping", and that it would "have the effect of stopping the employment of mere infants in shops."[20] According to the chief of the Bureau of Statistics, the law, "although far from satisfactory, was regarded as one of the most momentous measures of labor legislation yet effected in this state."[21] It was, indeed, a measurable advance over the previous conditions. But its ambitions far exceeded the adequacy of its provisions for attaining them. It was the resultant of the large aspirations and small practical wisdom of the agitators on the one hand, and the small sentiment and large legislative shrewdness of the opponents of the policy on the other. It failed in almost all the points necessary for an effective policy. This will be discussed later. But it was an initial attempt that furnished experience which guided the sentiment of the state when that was ready for another endeavor to carry out its policy with effect.

In the act of 1883 and in the supplementary legislation there will be observed an attempt to establish three different minimum requirements to be met by children before their employment would be permitted. These were a minimum age, a minimum attendance at school, and a

[19] *Newark Daily Journal*, Feb. 14, 1883.

[20] Feb. 27, 1883.

[21] *Rept. Bur. Stat.* 1885, p. 265.

minimum physical state. The provisions in the act of 1883 and the attempts to improve upon them will be noted for each of these minimum standards in order.

Minimum Age Limit—By the act of 1883 the legal minimum age was raised from the uniform limit of ten years, prescribed in the law of 1851, to a dual limit of twelve for boys and fourteen for girls, where it remained for two decades. This score of years, however, was not without agitation for a still higher age limit. The chief inspector, in his annual reports, urged an increase in the permissive age.[22] These recommendations were approved, though somewhat perfunctorily, in the messages of two of the governors.[23] And even employers are quoted as favoring a higher age.[24] But this agitation did not gain sufficient strength to embody its object in the statutes. On the contrary, the department charged with maintaining the established age limit came, during the last five years of the century, into such inefficient hands and under such demoralizing political influences that it is doubtful if there was in fact any restriction worth the name on the employment of children in factories.[25] This breakdown in the administration of the law provoked a number of attempts to secure remedial legislation. Most of these aimed at a strengthening of the administration of the law. But one measure, introduced at the request of the Federation of Trades and Labor Unions in 1899[26] and designed to strengthen

[22] The act of 1888, p. 7, urges raising age for boys to fourteen; that of 1891, p. 7, urges thirteen years for boys; and that of 1892, p. 8, urges fourteen again.

[23] *Message of Gov. Green*, 1889, p. 29; *Message of Gov. Abbett*, 1893, p. 49.

[24] *Rept. Insp. Fact.*, 1894, p. 21.

[25] See below, p. 177 *et seq.*

[26] House Bill 223. *Proceedings Convention F. T. and L. U.*, 1899, p. 41.

the whole law, deserves notice in this connection for its clause making the age limit fourteen years for boys as well as girls. This bill was held in committee until the day before adjournment, when it passed the House[27] but too late to get before the Senate.

This lapse in the administration of the child labor law eventually aroused, among people theretofore apathetic, a sentiment which gained force from the agitation in other states. The demand was at first for a stricter enforcement of the existing statute. But it soon directed itself toward a higher age limit also, and finally, when the general discussion revealed administrative weakness in the law as it was, it demanded a complete overhauling of the legislation on the subject. This movement will require greater attention at a later point in the discussion. It is to be noted here merely that because of this agitation the age limit for boys was raised in 1903 from twelve years to be uniform with that of girls at fourteen years.[28]

The provisions for a mimimum age limit in the act of 1883 were defective in several respects. From the point of view of administration, enforceability was greatly weakened by the looseness of the phraseology of the prohibiting clause, which provided merely that no child as described "shall be employed in any factory", etc. The inspector immediately met with evasions by employers who declared that children found in their factories were not in their employ.[29] It was impracticable for the inspector to prove in court that they were, although he was morally sure of it. Others were found who were engaged and paid on a sub-contract system by employees of the establishment and not by the proprie-

[27] *Min. House of Assem.*, 1899, p. 491.
[28] *Pub. Laws*, 1903, p. 386.

tor.[29] The law's penalties upon "employers" did not reach such sub-employers as these. Finally, the force of the penalties was entirely dissipated by the proviso which made the certificates of age from the parents conclusive as to the age in any prosecution. These were not made under oath and many of them were clearly false and were so considered in many cases, even by the employers.[29] But the framing of the law left the burden of proving the deception upon the inspector, who was at an obviously great disadvantage as against the parent's allegation, especially when the child was foreign born. In this situation, employers needed merely to provide themselves with a certificate, regardless of the true age of the child. This is what they all did, some openly declaring that so long as it protected them they would not question its accuracy.[29] It is not surprising that, when the law had been in operation but a few months, the inspector complained, "It is hardly possible to obtain a conviction before the courts so long as the . . . law permits the certificate of the parent or guardian to be conclusive evidence of a child's age."[30]

This exemption of the employer is not without defense. It is a fair question how far, if at all, the responsibility for determining the true age of a child should be placed upon the employer. It not only adds to the other cares of his business a difficult and troublesome duty, but it also subjects him to liability through the mistakes and deceptions of parents and others to whom he must go for evidence. It would cause the best intentioned employers to be penalized at times. Administrative considerations require that the employer be compelled, through some device, to use care. But they

[29] *Rept. Insp. Fact.*, 1884, pp. 22-3.
[30] *Ibid.*, 1883, p. 6.

do not necessarily demand that the whole responsibility be put upon him. The law of 1883, however, was at fault in relieving the employer too much. But experience soon showed that it was more imperfect in the character of the evidence of age which it accepted.

In the hope of meeting this defect in the law, the inspector, in his first report, recommended that certificates of age be required from the registry of births, and that in the absence of those, the parents' declarations be supported by their affidavits.[31] This, with other suggestions of the inspector, was laid before the legislature by the Governor in his message.[32] When the legislature met, the legislative committee of the Federation of Trades and Labor Unions had a bill introduced into the Senate[33] embodying some of the inspector's recommendations. By section four, which remained unchanged in the final act,[34] parents were required to furnish the inspector on demand a certificate from the office of registration of births, or, in the want of that, an affidavit of the age of the child. False swearing, "knowingly" done, was subjected to penalty as perjury. These affidavits were made conclusive as to the age of a child in any prosecution of an employer. Also the method of prosecution was changed from that of criminal procedure to that of an action for debt in which the penalty was sued for by the inspector.

These amendments were of doubtful value. The new procedure for prosecution was an improvement, but its greater simplicity and expeditiousness could avail little when no violation could be proved. The reliable official

[31] *Rept. Insp. Fact.*, p. 10.

[32] *Annual Message Gov. Ludlow*, 1884, p. 21.

[33] Senate Bill 2, 1884. *Rept. Insp. Fact.*, 1884, p. 6.

[34] Act of April 17, 1884. *Pub. Laws*, pp. 200-202.

certificates of birth were authorized by the law but not required as a condition of employment. Of course they were not used, since the parent's affidavit, which could be made to suit the case, was accepted by the law. Parents would swear to false affidavits and employers did not care if they did, since the affidavit *per se* protected them. The parents could not be reached, for the crime of perjury is one of the most difficult to prove in any case; and here this difficulty was aggravated by that of proving a child's age to be other than that alleged by his parents. Besides, there was often nothing against which a judgment could be executed if granted. Probably the law in this form did restrain some who would otherwise have disregarded it.[35] But in general it was weak.[36] No further changes in this matter, and none at all in the others noted, were made in the law until the whole code was remodeled in 1904. For a full score of years the policy of the state lost in effectiveness because of the internal defects in the law noted above.[37]

[35] *Rept. Insp. Fact.*, 1884, p. 20.

[36] *Ibid.* Also reports for 1885, p. 28; 1901, p. 229; 1903, p. 4. "False affidavits are the root of the evil."

[37] There was some unsuccessful agitation for amendment, however. The bill which became the general factory act of 1885 had a provision by which all persons found in any part of a factory at other times than meal hours should be deemed to be employees for the purposes of the act. (Senate Bill 154, 1885, Sec. 24.) This would have prevented employers from evading responsibility by denying that a child in question was an employee of theirs. It was stricken out, however. It was again before the legislature in 1886 in a bill supplementing the general factory act of 1885 just mentioned. But this bill failed to pass. (House Bill 218, 1886, Sec. 12.)

Concerning the administrative needs for a better determination of the age of children, the inspector urged in his report for 1894 the "necessity" for an employer's register of all children under sixteen years in his employ. (P. 29.) But no attention was paid to this. A bill introduced in 1899 at the instance of the labor organ-

Minimum School Attendance.—The second minimum requirement as a condition for employment was a prescribed amount of schooling. Section 2 of the act of 1883 aimed to secure this to every factory child, from the minimum age for employment up to fifteen years.[38] By a provision in identical terms, a section of the compulsory attendance law of 1885 sought to secure this schooling to such children employed "in any business whatever."[39] These enactments remained unchanged throughout the period.

This legislation for a minimum amount of schooling may be attacked as too meagre for the interest of the children on whose behalf it was made a part of the state's policy. But aside from that it was forceless for the measure of that interest actually sought. Practical conditions hindered the child from leaving work to attend day school. In the first place the employer did not like it. It increased the changes among his child employees and thus interfered with the organization of his force. Then the teachers did not like it. It interfered with the organization of their work. Such pupils would seldom fall in well at the stage which the group had reached. And special attention to fit them in appeared lost when they left at the expiration of the prescribed time. More

izations, in addition to raising the age limit to fourteen years as noted above, required employers to obtain from all children between fourteen and sixteeen years, a certificate, signed by parent or guardian and the principal of the school last attended, giving the name, residence, and age of the child. This would have added to the statement by the parents to the employer the record of the child's age as given to the school officers. That would have been a helpful check upon false statement of age and would have afforded the valuable administrative device of an employer's file of documentary evidence for every child within a prescribed limit above the minimum age.

[38] See above, page 33.

[39] Act of April 20, 1885, Sec. 2. *Pub. Laws*, 1885, p. 281.

than this was the effect on discipline. Such children usually come from their period of work with an increased spirit of "freshness" and independence which aggravates the task of keeping them in line during their unwilling attendance. Finally, many children do not like it. Those who are sent or allowed to go to work early, include many who are sent or permitted to go because they do not like to go to school.[40] For these reasons it was the night school rather than the day school that was attended in order to comply with the law. But night schools were not generally provided. Of those that were, many were managed perfunctorily and attended in the same spirit simply to meet the letter of the statute. Then, attendance at night school was not at all equivalent to attendance at day school, although the law accepted it as such. The night session is shorter than the day session and is less profitable hour for hour because of the physical exhaustion of the day's work on the child under fifteen, and because attendance is much more irregular. These defects quickly appeared to the early inspectors and were repeatedly pointed out.[41] They

[40] In an investigation by the Bureau of Statistics in 1903 into the conditions of nearly a thousand factory children, each was asked whether he preferred to go to school. The answers of those under fifteen are tabulated below.

Age	Total	Preferred School		Per cent of Total	
		Yes	No		No
12	5	0	5	0	100
13	21	3	18	14	86
14	183	23	160	13	87
All Ages	209	26	183	13	87

[41] The Inspector of Factories in his report for 1888, p. 7, discusses these points in part. He found this section so difficult to enforce

also offered suggestions to remedy the matter.[42]

This criticism and agitation brought no results, however, until 1903. In that year the wave of popular feeling in behalf of a stronger protective policy for children raised both the minimum age limit[43] and the compulsory school age[44] to fourteen years, and thereby cut off two of the three years from twelve to fifteen during which the prescribed minimum of school attendance was required. For the remaining year it was abandoned.[45]

Minimum Physical Condition.—The third minimum

that the law was "nearly, if not quite, a dead letter." The night schools, in his opinion, did not accomplish the object aimed at. He thought "the half time system for all children up to fifteen would be a better educational provision." (*Rept.* 1887, p. 9.) For other criticisms, see reports for 1897, p. 11; 1902, pp. 14, 238. One deputy inspector complained that the law compelled children who had already been in the higher classes of the schools and who wished to work, to attend night school for three months each year. *Rept. Insp. Fact.*, 1890, p. 73.

[42] *Report* for 1888, p. 7, recommends that the educational restriction be abolished and that the age limit be made fourteen for both boys and girls. In 1891, p. 64, a deputy inspector recommended a nine hour day for children under fifteen in order to enable them to go to night school. In his report for 1897, p. 12, the inspector recommended that in communities where employment of children ceases in the summer time, as in the glass industry, summer day schools be opened for the children employed during the rest of the year.

[43] See above, p. 37.

[44] Act of October 19, 1903, sec. 153, *Pub. Laws*, p. 59.

[45] As an index of the earlier intention of the legislature in this matter, it ought to be noted that in a general revision of the school law in 1900, the period of required attendance for employed children was increased to "at least sixteen weeks, in two terms of eight consecutive weeks each." But a "week" at night school was reduced from five to four evenings. This act of revision was declared unconstitutional but on grounds not affecting the matter here involved. It was replaced by a similar act in 1902. This act in turn being found unconstitutional, the general law of October 1903 was passed. This, as related in the text, raised the compulsory age to fourteen and, with the increase in the minimum age limit earlier in the year, disposed of the matter.

condition for employment takes account of the fact that a child may have reached a prescribed age and attained a prescribed education and yet, because of imperfect physical development, still need to be witheld from labor in order to insure a sufficient physique for later years or prevent cruel suffering for the present. To this end, an act of 1884, enlarging the staff of inspectors, contained a provision empowering the inspectors to demand "a certificate of physical fitness" from a physician in the case of children apparently unable to work and to forbid the employment of a child who could not obtain such a certificate.[46] The maintenance of such a minimum is a hard matter at best because of the difficulty of prescribing a minimum physical standard that will apply to all cases. But this law left the minimum degree of "physical fitness" entirely undefined and then left each parent to select his own physician to make the definition in the case of his child. This could not but result in wide irregularity if observed. And it would not be observed except in extreme cases, for parents would consult their family physician or some other who would be moved to decide as the parents wished.

Hours for Children: Laws of 1883 and 1885.—Besides prescribing minimum conditions which must be complied with before a child may become employed at all, the state has also attempted to regulate matters affecting those children, still minors, whom it permits to be employed. Such are the hours of labor and matters affecting health and safety. Reference is not here made to general laws applying to all employees, but to those special enactments springing from a solicitude for the future interests of growing children. The legislation on hours will be first considered.

[46] *Pub. Laws*, 1884, p. 201, sec. 3.

It will be recollected that when the act of 1883 first came before the legislature, like the bill of 1882, it established a ten hour day and a sixty hour week in all employments for all minors under twenty-one. It could not be enacted, however, until the age had been reduced to fourteen and the scope of employments to manufacturing. Further, it substituted an "average" of ten hours a day for a flat ten hour limit and excepted fruit canning establishments.[47] This was a retreat from the position declared in the defunct existing law, in which the age limit for hours was sixteen years. The agitators could not let it rest there. The inspector himself recommended raising the age to eighteen.[48] Besides, the inspector found that the requirement of only an average of ten hours a day offered a loophole for the evasion of the sixty hour a week limit. Accordingly, in his report for 1884, he recommended a change in the law.[49] Governor Abbett, in his next message, supported the suggestion.[50] When the general factory act of 1885 was brought forward, it was again sought to raise the age to twenty-one and to include all employments. The legislature conceded the contention as to employments, but as to the age, it only returned that to sixteen. But it also restored the flat limit of ten hours a day or sixty a week.[51] This set a standard abreast of that of the day. But the force of the measure was weakened by the provision that it was "willful" violation that would incur the penalties.[52] The difficulty of proving a violation to be "willful" was one of the

[47] Secs. 3 and 4.
[48] *Rept. Insp. Fact.*, 1883, p. 11.
[49] *Ibid.*, 1884, p. 23.
[50] *Message Gov. Abbett*, 1885, p. 28.
[51] Sec. 7.
[52] Sec. 15.

reasons assigned by the inspector for difficulty encountered in enforcing the act. In his next report the inspector recommended that the word "willful" be stricken out.[53] Another difficulty was the unwillingness of children to testify against their employer.[54]

It thus appears that the ideal set up from the beginning by the advocates of a restriction on the hours for children was a ten hour day for all minors under twenty-one. The most recognition they could get, however, was a limitation at first for children under fourteen in 1883, and then for children under sixteen in 1885. Neither law made any restriction on night work for children above the legal age for employment at all. And it does not appear that this was asked.

Efforts to Increase the Restrictions on Hours.—The perseverance of organized labor of this period in its agitation for legislation desired by it is in no way better shown than in its continued urging of a ten hour limit for all minors under twenty-one and for women. The general factory act of 1885 as passed omitted several provisions in the original bill and changed some others. To restore these omissions and alterations, a supplementary bill was introduced into the legislature of 1886. This bill contained a section prohibiting the employment of minors or women in any "manufacturing, mercantile, or mechanical" establishment for more than ten hours a day or sixty hours a week.[55] The whole bill, however, failed to pass. Undiscouraged, the Federation of Trades and Labor Unions introduced into the next legislature a similar supplementary bill containing the same provision on the hours for minors and women.[56] The

[53] *Rept. Insp. Fact.*, 1885, p. 48.
[54] *Ibid.*, p. 28.
[55] House Bill 218, 1886, sec. 8.
[56] House Bill 85, 1887, sec. 7.

bill was passed after much amendment, but this section was stricken from the measure on enactment. The following year another supplementary bill was brought forward to supply those features still rejected, including the ten hour day for all minors and women. This time, however, it was to apply only to manufacturing and mechanical employments.[58] Again it was defeated. Every year thereafter until 1892 almost identically the same bill was introduced and as regularly defeated, although always, excepting in 1891, passing the House.[59]

The Fifty-Five Hour Law of 1892.—This agitation met success in 1892, when a most drastic law was passed regulating hours of employment. The preceding year a bill was introduced establishing fifty-five hours as a week's work, and fixing the hours for work during each day between seven A. M. and twelve M. in the forenoon and one P. M. and six P. M. in the afternoon, except on Saturday, when work was to cease at noon. This would appear to apply to adult men, though nothing in the bill specifically said so. It did declare that no minor under eighteen and no woman above that age should be employed except during the hours stated.[60] The bill passed the House with only one negative vote,[61] but was never reported from the Senate committee to which it was referred. In 1892 the same measure was introduced again,[62] and passed both branches of the legislature without a single vote recorded against it,[63] though in

[58] House Bill 93, 1888, sec. 2.

[59] House Bill 79, 1889; 119, 1890; 82, 1891.

[60] House Bill 40, 1891.

[61] The vote was 37 ayes to 1 nay in a body of 60 members. *Min. House of Assem.*, 1891, p. 702.

[62] House Bill 50, 1892.

[63] The vote in the House was ayes, 44; nays, none, in a body of 60 members; in the Senate, ayes 15, nays, none in a body of 20 members. *Min. House of Assem.*, p. 184; *Senate Journal*, p. 475.

the course of its journey it was greatly weakened and its constitutionality was endangered. Fruit canning establishments and glass factories were excepted from its operation. The provisions designed to secure its enforcement were emasculated. The requirement of trimonthly visits by the inspectors was stricken out altogether. The "two weeks" limit was stricken from the requirement that the inspector investigate reported violations within two weeks, so that no time limit at all was put upon him, and the mandate that he "shall" prosecute violators was changed to the authorization that he "may" do so. In this form it became the act of March 23, 1892.[64]

This act was widely heralded and won for New Jersey a famous position with respect to this feature of labor legislation.[65] It established a ten hour day and a fifty-five hour week and no night work for all minors under eighteen years and for all women over that age. Possibly it meant to do that for all men also, though the language on that is not above debate. And this it did, in fixing the hours of the working day, in terms that did not admit of any subterfuge. Yet it is open to serious criticism, partly as to its implied policy and its administrative qualities, but especially as to constitutionality. It is doubtful if those who had withstood the agitation for so many years would have conceded so much as to policy unless they had felt sure that the law was constitutionally and administratively impotent. These criticisms bear chiefly on its application to adult men and women. Yet the consequent weakness of the law was equally fatal to its influence upon the hours for minors. An attempt to test the constitutional strength

[64] *Pub. Laws*, 1892, pp. 171-2.

[65] See *N. J. Rev. Char. and Cor.*, I, p. 134.

of the act was made at once in two cases which were carried through to the highest court of the state. After two years of litigation, the court decided the cases on grounds of errors in procedure and left the constitutional question unsettled.[66] In the meanwhile the chief factory inspector had become convinced that there were some industries in which the act could be observed, if at all, only with unjustifiable losses. Also his term expired before the litigation was decided, although he held office until 1896 because a Democratic governor and a Republican senate could not agree on his successor. Under these circumstances, he appears to have given up the attempt to secure a ruling on the law or to enforce it except by moral pressure. His successor, when appointed, was a politician who lacked sufficient interest in the measure to push it, even though it had been a perfect law. For the rest of this period this statute remained intact on the books but measurably discredited in the public view. The uncertainty whether the act of 1885 was actually replaced by this one or not left the state's policy toward the hours of employment for children undefined and hazy, until the law of 1904, with which the next period is concerned. The unsuccessful bill of 1899, already twice noted, had a section that would have cleared the matter. It provided for an eight hour day and a forty-eight hour week for all children under sixteen years, while they were fulfilling the required attendance of twelve weeks at school. At other times the hours were limited to ten a day and sixty a week.

Health and Safety of Children.—Legislation in behalf of the health and safety of factory workers in general operates in the interest of children as well as adults.

[66] See *Rept. Insp. Fact.*, 1893, pp. 93-133b. The cases were not reported in the regular volume of law reports.

But a special interest in the ungrown child has led to some special provisions for his protection. It is these which are noted in this section.

Neither the early child labor bills nor the acts of 1883 and 1884 contained any restriction on the employment of children at dangerous or unhealthful work. In his report for 1883, the factory inspector marked this omission and urged that this, with other matters, be remedied by the legislature.[67] His next report also took note of the matter with some earnestness.[68] The subject was given attention in the bill enacted in 1885, which forbade that any woman or minor under eighteen years "be required" to clean machinery while it was in motion.[69] But the legislature rejected a provision forbidding that any minor be employed at "any work dangerous to health without the knowledge of the factory inspector and a certificate of fitness from a reputable physician."[70] The inspector thought the provision for safety now made would be ineffective because few would risk their employment by testifying that they had been "required" to clean moving machinery. He recommended that the law specifically prohibit them from doing so.[71] This was done in 1887 and at the same time protection from unhealthful occupations was attempted. The law then declared that "no minor or woman" shall clean moving machinery and "no minor below the age of sixteen shall be employed at any work dangerous to

[67] *Rept. Insp. Fact.*, 1883, p. 11.

[68] *Ibid.*, 1884, p. 15. "The work at which some of these children are engaged is in many cases dangerous to life and limb and suited only for persons of mature years. This is proven by countless mutilated hands and by numerous accidents."

[69] *Pub. Laws*, 1885, pp. 212-15, sec. 4.

[70] House Bill 154, 1885, sec. 15.

[71] *Rept. Insp. Fact.*, 1885, p. 30.

health without a certificate of fitness from a reputable physician."[72] This continued to be the law throughout this period. But notice should be made of a bill in the Senate in 1897 proposing to substitute the word "injurious" for "dangerous" and to remove the exception allowed under a physician's certificate.[73] The bill never came to a vote, however.

A bill of 1888[74] required employers, before employing any minor under eighteen years of age, to instruct and inform him "in the nature and character" of the machinery "in and about which" he was to be employed. This passed the House, but was reported adversely in the Senate, which thereupon laid it aside. The effect of this would have been merely to give statutory form to the common law as already laid down by the courts of the state.[75] But that would have been a gain.

An act of 1889, providing for fire escapes and other protection from fire, contained a clause forbidding that women or "children" be employed in any establishment, manufacturing or mercantile, "in a room above the second story from which room there is only one way of egress."[76] The act was indefinite as to the age within which a minor would be considered a child within the meaning of the law.

The special provisions during this period for protecting the health and safety of children thus appear very incomplete. The only definite feature of the law was that on cleaning moving machinery. Many other dangerous operations were left out of consideration and the

[72] *Pub. Laws*, 1887, pp. 243-6, secs. 3 and 7.
[73] Senate Bill 200, 1897.
[74] House Bill 255, 1888.
[75] For a statement of the common law, see *Smith vs. Irwin*, N. J. Law Reports (22 Vroom) pp. 508-9.
[76] *Pub. Laws*, 1889, pp. 446-51, sec. 1.

prohibition of employment at work dangerous to health was too indefinite, too susceptible to undecided controversy in application to be of any force. Whatever virtue it might have had was further weakened by the exception allowed under physician's certificate.

Compulsory Attendance: Law of 1885.—The practical operation of laws restricting the employment of children is affected so closely by efforts, or the absence of them, to compel the attendance at school of the children who are forbidden to work, that a discussion of a child labor policy must include the attitude toward compulsory attendance. The efforts to enforce the child labor law of 1883 directed attention at once to the need of supplementary legislation requiring the children excluded from employment to improve their time in school.[77] A bill was introduced into the Senate in 1884 providing for the compulsory attendance of all children between the ages of seven and twelve years for at least twenty weeks each year.[78] But the urging of the measure was checked by the fear of moving too rapidly,[79] and it was

[77] The inspector of factories, in his first report, recorded that the sentiment for such law was "universal", and recommended it in his report. (*Report*, 1883, pp. 5, 10.) The superintendent of schools at Paterson wished for such a law. (*Rept. Supt. Pub. Instr.*, 1883, App., p. 35.) The incoming governor gave a blanket recognition to this and other recommendations of the inspector and urged them upon the legislature for its "serious consideration." *Inaug. Address Gov. Abbett*, 1884, p. 18.

[78] Senate Bill 88.

[79] It was ordered printed before reference to a committee and left open for a while to allow thorough consideration. *Newark Daily Advertiser*, Jan. 29, 1884.

In an editorial dealing with some matters before the legislature, the *Newark Daily Advertiser* said, "It is a very important and well-intended measure, but the details should be thoroughly understood and wisely formulated before it is passed. It virtually transfers the control of children from their parents to the school boards, and unless it gives the former the right to educate their children in

withdrawn four weeks later because it was thought best, on account of the lack of school accommodations, to leave the consideration of the problem to the next legislature.[80]

Meanwhile, the friends of the proposal did not cease to urge it.[81] In 1885 the bill of 1884 was again introduced into the Senate with a few additional details, and passed without amendment and with hardly any opposition or discussion.[82] It required every child between seven and twelve years old to attend a day school for at least twenty weeks each year, at least eight of the twenty to be consecutive.[83] It also required, as noted in another connection, that every working child under fifteen years of age, employed "in any business whatever", should attend some recognized day or night school for at least twelve consecutive weeks within every twelve months. Two weeks at a recognized half-time or evening school was to be counted as one week in day school. This attendance was to be evidenced by a certificate from the teacher, without which the child might not be em-

schools of their own choosing, the bill will be open to objections that may defeat the object intended on constitutional grounds." Jan. 30, 1884.

[80] *Rept. Insp. Fact.* 1885, p. 6. Superintendent of schools for Paterson, in *Rept. Supt. Pub. Instr.*, 1884, Appendix, p. 30.

[81] The inspector again urged it in his report (1884, p. 31) and the Governor called "special attention" to that feature of it. *Message Gov. Abbett*, 1885, p. 28.

[82] Act April 20, 1885, *Pub. Laws*, pp. 280-4. The newspapers hardly noted the progress through the legislature.

[83] The constitutional objection to such requirement was met by excepting the case of any child which was excused by the school board of the district on the ground of its "bodily or mental condition," or because it was "taught in a private school or at home by some qualified person or persons in such branches as are usually taught in primary schools."

ployed. When no efficient school existed within two miles from the child's place of employment or his home, the law accepted attendance at a school temporarily approved by the factory inspector. This admitted the employers' evening schools maintained in some places. Parents who failed to send their children to school as provided were subject to a small fine or short imprisonment. For the enforcement of the law, the factory inspector or the school authorities were empowered to secure a detail from the police force of cities to be known and serve as truant officers. In the absence of a regular police force, the local school board was required to designate one or more constables or, where none resided in the district, some other person. It was made the duty of the truant officer to cause or bring prosecution against any person violating the act. An attempt was made to meet the problem of persistent truants and incorrigibles by providing that all such children between seven and fifteen years of age should be deemed "juvenile disorderly persons" who, if over nine years old, might be sentenced to a juvenile reformatory until sixteen years old, unless sooner discharged. But the sentence might be suspended during regular attendance at school. The problem of providing accommodations, which delayed the act one year, seems not to have been solved, for by a proviso the law was not to apply to those communities where the accommodations were inadequate. Since that was the chronic condition, especially in the larger towns and cities, the proviso practically defeated the object of the bill in the very places where it was most needed.

Defects of the Attendance Law.—This law was not effective. Just what effect it had will be discussed at a later point. But here it is desired to note the respects in

which the law itself failed to meet the exigencies which are bound to arise in any attempt to carry out the policy adopted. In the first place the shortness of the term of required attendance, whatever may be said of it as a matter of policy, was an administrative weakness. It is a comparatively simple matter to note whether a child is attending school or not. But to note for each child whether he has attended for eight consecutive weeks and whether he has attended more than that, either regularly or intermittently, sufficient to aggregate twenty weeks in all each year would require an amount of bookkeeping that would tend to dissuade school officials from trying to keep up with it. But such records would be necessary to know whether children enrolled were fulfilling the required attendance.

More serious than this was the inadequate provision for getting children on the rolls in the first place, as well as keeping them there. That could be done only through truant or attendance officers. It was soon discovered that, in providing for these, the act failed to authorize their payment except in cities.[84] Also, truant officers were not empowered to enter places of employment in search of children illegally out of school. This omission was especially fatal to the enforcement of the attendance for twelve weeks required of all working children under fifteen years of age. As the factory inspectors had authority to enter only manufacturing establishments, there was no person with sufficient powers to discover whether such children employed elsewhere than in factories were complying with the law. Further, as to truant officers, they had to be selected from the regular police force or the constables if there were

[84] *Messages Gov. Abbett*, 1887, p. 14; 1891, p. 29; *Rept. Supt. Pub. Instr.*, 1891, p. 21, complain of this.

such. But the average policeman looks upon truancy service with disdain and the heads of the force regard it as an irrelevant duty to be discharged with as little attention as possible. The administration of the truancy work through these channels and under these conditions, therefore, could not but be ineffectively done.

Another weakness in the provision for enforcement was that the administration of the law was left to local school boards without any penalties or other provision for constraining them to secure its observance. Although this weakness was inevitable, since no scheme of centralized administration with authority over localities would have been possible of enactment, nevertheless it has to be noted. For the want of such constraint, local boards yielded in their efforts at enforcement before various deterrent consideration. One immediate obstacle was the expense of providing for truant officers and of conducting prosecutions.[85] Another consideration was the impairment of classroom work and discipline.[86] This has been shown in connection with the requirement of school attendance as a condition of employment. The only remedy for this was to provide ungraded rooms and parental schools with special teachers and equipment for backward, irregular, and incorrigible children. But this involved additional expense, which was prohibitive except for the larger places, and a special problem to worry the school authorities. The easier way was to let the law go by the board. Finally, there was the perpetual lack of school accommodations. Later it will appear how important this actually was. But here let it be noted that the law made no provision for insuring build-

[85] *Rept. Insp. Fact.*, 1886, p. 17, complains of this.

[86] *Ibid.*, 1886, p. 17; 1887, p. 9; Supt. of Passaic, in *Rept. Supt. Pub. Instr.*, 1896, p. 203, complain of this.

ings into which the children out of school might be placed if compelled to attend.

Efforts to Strengthen the Attendance Law.—The need of remedies for the deficiences of the law was soon noted by the advocates of compulsory attendance. Many urged merely a more vigorous law, but some advocated it through constraint upon the localities.[87] Attention was given to specific needs also, as for truancy or parental schools[88] and for accommodations.[89] The only defect, however, which received the attention of the legislature was the want of provision for insuring sufficient accommodations. This provoked a great deal of discussion. As soon as the act of 1885 went into effect, there arose at once a demand for constraint upon local school boards.[90] But a mandate by the state would not alone be sufficient. The inactivity of localities was not due solely to indifference or to refusal to incur the expense. There were many cases where funds could

[87] The Superintendent of Public Instruction at once took a pronounced stand for that course. In his report for 1885 he says that if, through negligence of municipalities, the present law fails "to provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children of the state of school age, it is surely the constitutional duty of the legislature to enact a law which cannot fail." (P. 33.) The superintendent of schools for Newark complained of the law's weakness in this respect. (*Rept. Supt. Pub. Instr.*, 1886, App., pp. 101-2.) Gov. ernor Green in his message of 1890 urged the need of better enforcement. (*Message*, p. 27.) Likewise the superintendent of Paterson in 1899, (*Rept. Supt. Pub. Instr.*, 1899, p. 291) and the State Charities Aid Association in 1900 (*Annual Report*, p. 12).

[88] *Rept. Insp. Fact.*, 1885, p. 36; 1886, p. 17; *Rept. Supt. Pub. Instr.*, 1896, p. 203.

[89] The Inspector of Factories even urged that the state provide the needed accommodations. *Repts.* 1884, p. 31; 1885, p. 49.

[90] *Repts. Insp. Fact.*, 1886, p. 16; 1887, p. 9; 1889, p. 6; and Governor Abbett, in his message of 1887, p. 15, urged that the state school officials be given power to apply to the courts for a mandamus to compel neglectful localities to provide needed accommodations.

not be raised because the limit of taxation or of indebtedness had been reached. An attempt at compulsion which did not provide for these cases would have placed such communities between the devil and the deep sea. Accordingly practical discussion turned toward this problem. Before the law had been in operation two years, a definite proposal was made. Since 1872 school districts had been permitted to borrow from the state school fund for building purposes on school district bonds. But, by the framing of this law, cities found themselves shut out from this privilege.[91] Governor Abbett recommended in 1887 that provision be made whereby municipalities could borrow at a low rate of interest from this fund, of which some over $2,000,000 could be invested in this way. He urged also that all restrictions by their charters or by public law on their indebtedness be waived so far as to permit cities to provide needed buildings in this way.[92] The suggestion was followed. But carelessness in drafting the law delayed its enactment in passable form until 1889.[93]

[91] *Pub. Laws,* 1872, pp. 91-92. This authorized the investment of the state school funds in the building bonds of school districts and municipalities under prescribed safeguards. It then authorized the inhabitants of any school district, when met in a town meeting for the consideration of school finances, by a two-thirds vote of those present, to provide for the issue of bonds of the district in such sums and in such amounts and payable at such times as they might direct. Interest was fixed at 7 per cent and the bonds were made a lien upon the property of the district. There would seem to be no limit to the construction of school buildings by those who wished them except the amount of school funds to be invested in this way. Rural districts largely availed themselves of this opportunity. But in the case of cities, besides the impracticability of gathering the voters in "town meeting", there was the further obstacle that cities were integral districts in themselves and hence were restrained by their debt limits as municipalties from borrowng as districts.

[92] *Message Gov. Abbett,* 1887, pp. 14-15.

[93] *Pub. Laws,* 1889, pp. 353-5. The act was passed in 1887, but in

Summary.—The legislation just reviewed shows the beginning of a persistent and studied policy. In that it stands in marked contrast with the preceding years. Yet the sentiment of the state was limited in the extent of its support and was ignorant of the technique of a child labor policy. It did not see at how many different points such a policy comes into opposition to established practices, not only economic but social. Consequently, it did not make the numerous administrative provisions, each requiring due regard for the others, needed to meet these reacting influences. This knowledge was doubtless had by some in a much larger measure. But the perception of the various points at which opposition or evasion would be encountered and the perception, especially, of the administrative importance of providing for those occasions had yet to be hammered out by experience for the most of those who were shaping the policy from the side of its advocates. It is not implied that the opponents of the policy had any more thorough understanding of the matter. They did not need it. They each knew just how the provisions of the proposed law would affect their interests and were able to turn aside the force of the law at that point. The advocates of the policy were not always sufficiently sensitive to the fundamental consequences of such modifications of the law; so that, when the measure was tried out in

such a form as to make it doubtful whether it applied to a district coextensive with a city and independent of a township. Governor Green, who followed Governor Abbett, therefore vetoed it and brought the matter to the attention of the next legislature. (*Message Gov. Green,* 1888, p. 13.) The correction was made and the act passed and signed. (*Pub. Laws,* 1888, pp. 288-90.) This time it was so uncertain as to the security of the bonds issued under it as to jeopardize their sale. Governor Green called this point to the attention of the legislature in his message of 1889. (P. 19.) It was then passed in final form.

operation, the aggregate of such modifications was found to have left important loopholes. The defects of the policy are thus not to be charged to the farseeing and comprehensive counter campaign of those who opposed it, although here too there were doubtless some who were shrewd enough to see with satisfaction the consequences of the pruning of the bills.

Hence the character of the legal definition of the standard that has just been shown. The attempt to maintain an age limit was frustrated by imperfect provision for determining the true age of a child and by practically exempting the employer from responsibility for children under age found in his establishment, without locating the responsibility upon any other really responsible person. The educational minimum fell far short of the standard set because of various administrative contingencies unprovided for. The minimum physical standard was of no real force because the determination, according to the law, of a child's physical state easily fell into the hands of those with an indirect interest in having the child go to work anyway. The standard of hours for children became fatally uncertain. The exclusion from dangerous duties and occupations was so indefinitely ordered that only the most clearly dangerous cases would come with certainty under its application, without endless discussion of questions of opinion with no available resort to settle them. The compulsory attendance law was without adequate administrative force in many respects. And finally, as will be shown,[94] the public sentiment itself did not insist on an execution of the policy it had decreed.

When put into a consecutive statement, these shortcomings fill the view of the standard during the period.

[94] See below, chapter X.

But they should not be allowed to obscure the fact that the policy, even thus poorly defined, did have considerable force while in the hands of a sympathetic and willing department for enforcing it, and that success to an important degree was realized. Eventually the people of the state became aroused over the lack of complete success. The nature of the shortcomings in the law were learned through the experience within the state and elsewhere. And a new endeavor was made to define more effectively the standard of the policy. That is the subject of the next chapter.

CHAPTER V.

A GENERAL AND INFORMED PUBLIC SENTIMENT. SINCE 1904.

The Widening Interest in Child Labor.—Up to the opening of the present century, so far as the writer has been able to discover, the labor organizations offered the only organized effort for adopting and executing a state policy toward employed children. Soon after 1900, however, the agitation began to receive support from other sources. In 1901 the New Jersey Consumers' League was organized and, as part of its work, began the discussion of the child labor situation in New Jersey.[1] Child labor began to appear as a topic on the all-embracing program of the women's clubs. Charitable organizations also became infected. And the newspapers began to report discussions and publish complaints of violations of the law and of neglect of duty by inspectors and to urge reform.[2] Much that was said from

[1] It was under the auspices of this organization that the earliest attempts were made to bring into coöperation the various elements of the agitation.

[2] Special criticism was directed to the glass industry in the southern part of the state, the silk and other textiles of Passaic county, and the tobacco and cigar factories throughout the state. Examples of this are too numerous to cite. They will be found in all of the leading newspapers.

Two distressing events happening within a few months of each other had a great deal to do with increasing the interest of the state in the matter. In June 1901, Lawrence Cianchetta, after working all day and then through the night shift in a glass factory, was overcome with exhaustion on his way home along a railroad and fell

this time on was hastily concluded from insufficient and ill-considered observation. And much was even framed up for the purpose of sensation. So that a great deal of injustice, as well as truthful criticism, was brought upon some establishments in the state. But whether based, as in some cases, on deliberate sifting of the available facts, or, as in other cases, on hysteria, the swelling wave of sentiment adverse to the employment of children is the thing to be noted here. That was indisputable. And out of it came the events to be examined in this period.

Agitation for Better Inspection.—The public resolution now forming directed itself first to an improvement in the inspection service. It will be necessary, therefore, to turn aside here and follow that agitation in order to trace the public mind in its approach to a new ideal or standard. The labor organizations had

asleep on the track, where he was killed by a train which passed later. It developed at the inquest that he was but nine years old. The coroner's jury censured the glass company for employing one so young in violation of the law. (*Camden Post-Telegram*, June 15, 1901.) This was made the text for several editorials, also. The pathetic tragedy of such a little fellow losing his life as the result of exhaustion from toil gripped the sentiment of the state so as to strengthen greatly the militant opposition to child employment. The accident was often mentioned as the agitation grew.

Five months later almost to a day, in the same factory, James Mousto, while fighting with another boy, was thrown so as to injure his head. He was removed to an adjoining room where he died soon after the injury. At the inquest it was shown that this boy was only between ten and eleven years old. These proven cases of boys well under the age limit were proclaimed to be typical of conditions generally. The known negligence of the local inspector made it easy to believe that they were. The Union Trades Council of Millville, composed of some seventeen different unions, censured the chief inspector and the deputy; and a committee was appointed to arrange for a meeting of representatives of labor organizations from all parts of South Jersey to protest against the lax administration of the law. *Camden Post-Telegram*, November 14, 1901.

long agitated, though with no success and little attention, for a more specific and exacting legal requirement of duty from the inspectors. At length in 1902, under the added pressure of the growing sentiment, an act was passed requiring the inspectors to give their full time to their work.[3] Governor Murphy, who began his term that year, was in sympathy with the purpose if not with all of the methods of the agitation. He let it be known that he would hold the inspectors to this requirement. This brought improvement in some places at once.[4] The labor unions in some localities appointed committees to watch the work of the inspectors.[5] Numerous local organizations of a charitable and philanthropic character pursued the same policy. Although many complaints from these sources were without sufficient foundation and although many of them were not investigated, nevertheless this constant surveillance of the inspectors was an increasing stimulation to better service.

The efforts to reform the inspection were directed higher up also. The term of office of Chief Inspector Ward expired in 1901. Pursuant to a resolution of the annual convention in 1900,[6] the Federation of Trades and Labor Unions preferred charges against Inspector Ward and urged Governor Voorhees not to reappoint him. The Federation presented to the Governor a great number of affidavits alleging specific violations. But the Governor could not see his way to refuse reappointment to Mr. Ward.[7] When Governor Murphy had

[3] These events are discussed below, p. 138.

[4] Hugh F. Fox in *Annals of Amer. Acad.*, XX, 196.

[5] This was pursuant to action taken by the Federation of Trades and Labor Unions at its convention in August 1902. (See *Proceedings.*) Yet some locals had been doing this for some time.

[6] *Proceedings*, 1900, p. 40.

[7] The *Newark Sunday News* said this was due to "the exigencies

entered upon his term, charges were again preferred against Inspector Ward and his removal was demanded. This time the labor unions were supplemented by other organizations such as the Consumers' League and the State Charities Aid Association.[8] Governor Murphy, in a number of interviews with the inspector, urged upon him the "importance of prompt and vigorous action in case of infringement of the law."[9] On one of these occasions, April 22, 1902, the Governor censured him for neglect.[10] In August of the same year, the Federation of Trades and Labor Unions asked Mr. Ward to come before its convention and defend his course against charges there made against him in person.[11]

To all criticism Inspector Ward pleaded that he was thwarted by the falsified affidavits which could not be disproved. But even the most charitable of his critics, though admitting this point, still believed that he lacked aggressiveness and other qualities necessary to one in his office. Thus arose a demand for his removal. The Federation of Trades and Labor Unions sent a committee to Governor Murphy with that request.[12] The Governor received the committee, but had to tell them that, according to advice from the attorney-general, he had no power to remove the inspector, whose appointment was made with the consent of the Senate and whose removal, therefore, could be only by impeachment.[13] Counsel for the

of the political situation." January 3, 1904, in leading editorial at time of Ward's resignation.

[8] Hugh F. Fox in *Annals Amer. Acad.*, XXV.

[9] *Message Gov. Murphy*, 1903, p. 9.

[10] *Newark Evening News*, Apr. 23, 1902.

[11] *Proceedings*, 1902, p. 37. *Newark Evening News*, Aug. 19, 1902.

[12] *Proceedings*, 1902, p. 35. The committee could not find the Governor at the time, but was continued until it could. This it did on September 16, as noted below.

[13] *Daily State Gazette*, Sept. 17, 1902.

Federation concurred in the position of the Governor. The committee then considered that avenue as closed, because of the improbability of getting a verdict from the Senate.[14]

It was then proposed to amend the law so as to give the Governor power to remove the inspector. In this agitation the other forces joined with the labor organizations. Governor Murphy urged the proposal in his next message.[15] The outcome was an act giving the Governor this power,[16] though it was not secured without opposition that threatened to defeat the measure.[17]

When the Governor had the power of removal in his hands, however, he was slow to use it unjustly.[18] The heat of the accusations and denials distorted any view of the facts with reference to a course of strict justice.

[14] The legislative committee of the Federation did, however, submit to the candidates for the Assembly the question of the action to be taken concerning the inspection.

[15] *Message Gov. Murphy*, 1903, p. 9.

[16] *Pub. Laws*, 1903, pp. 102-103. By this the appointment of the inspector was put in the hands of the Governor alone, who was given power to suspend or discharge him at his discretion, after giving him an opportunity to make a defense.

[17] *Proceedings Conv. Fed. T. and L. Unions*, 1903 (not paged).

[18] Many who were active in urging that this power be given to the Governor were surprised that he did not use it by removing Mr. Ward forthwith. It was thought that political influence was intimidating the Governor. While he doubtless could not disregard such influences, an independence and resolution later shown does not permit the easy acceptance of this view. Besides, it was reported that Mr. Ward tendered his resignation, which the Governor returned saying that he had no desire to remove him; all he wanted was that he make the office efficient and get the results the position was created to achieve. (For this see *Newark Evening News*, Jan. 2, 1904.) The facts fit better the interpretation which was afterward commonly given, that he wished to give Mr. Ward every opportunity to retrieve himself; that he hoped that this sword of Damocles would impel him to do better; and that meanwhile the Governor could make sure of his ground.

To what degree the law was violated and how far these violations were due to the unenforceability of the law as well as the lax efforts to administer it, were questions which, when asked in an unpartisan spirit, did not find their answers lying at hand. On the one hand were the accusations by the critics, charges which were often indefinite or without sufficient support to sustain a challenge of their accuracy. On the other hand were the unqualified denials of the inspectors. In this uncertainty Governor Murphy, soon after the legislature adjourned, without removing Mr. Ward, put his own private secretary, Mr. John L. Swayze, in active charge of the department to try out the situation. Mr. Swayze began in May the investigation of child labor which issued in the disclosures noted in the discussion of the observance of the law.[19] While this investigation was in progress a more vigorous enforcement of the law was undertaken also, especially after September 1, when there went into effect the act of 1903 raising the age limit for boys to fourteen, where it had been for girls from the beginning.[20]

The discussion about this time was considerably enlivened by the advance publication late in December of the first part of the report on child labor by the Bureau of Statistics already mentioned. The heated controversy

[19] See below, pp. 181 *et seq.*

[20] On September 22 an all day's conference was held by Messrs. Ward and Swayze with the deputies. The report of this conference states that by that date between 150 and 200 children had been discharged from the factories, while the department believed that many more had been laid off without notification. (*Newark Evening News,* Sept. 23, 1903.) The report of the inspector for the year ending October 31,—a report which was prepared by Mr. Swayze and Mr. Dale, the chief clerk of the department, although signed by Mr. Ward,—says that 327 children had been discharged since Sept. 1, to which as many more should be added who were discharged by the employers themselves or by truant officers or who were taken out by their parents. *Rept. Insp. Fact.,* 1903, p. 4.

over this report[21] does not require further attention than to note it as an event in the discussion over the agitation for a more vigorous policy. The data of the report are noted in their appropriate places.

On January 2, 1904, Mr. Ward resigned.[22] It was expected that Mr. Swayze would succeed him,—and the Governor would have appointed him,—but he was unwilling to accept the position at the salary attached. On January 8 Governor Murphy appointed Mr. Lewis T. Bryant, of Atlantic City, whose record, though pertaining in no way to factory affairs, promised well and whose administration of the office has been of a high character, though it has not escaped criticism.

Agitation for a Better Law.—Although the awakened

[21] This first part used the returns of the twelfth census for manufactures and, by comparison with the same returns for other states, concluded that the amount of child employment in New Jersey was not as deplorable as it was depicted. This conclusion was elaborated in the full report, published later, of the Bureau's own investigation of factory children. Besides this conclusion, the report argued for a much wider exemption of children employed because of family hardship. It made out that this was the chief reason why children went to work and urged the necessity of permitting children under the minimum age to take employment in those cases. The apparent tone of the advocate that sounded throughout the report struck a rasping discord with the agitation against child labor. It was attacked most venomously as a specious plea for child labor calculated to offset the agitation, as an indefensible attack on the department of inspection and especially on those then in charge of it, as a reflection on the legislature for passing the act of 1903. The chief of the bureau replied in a letter to Governor Murphy. See, *e. g.*, *Passaic News*, quoted in *Newark Evening News*, Dec. 28, 1903; *Newark Evening News*, Dec. 26, 28, 29, 30, 31, 1903; Jan. 5, 28, Feb. 3, 1904; *Paterson Daily Press*, Feb. 2, 1904; *Trade Union Advocate*, Jan. 1, 1904. Similar statements of the controversy are found in other newspapers.

[22] The news reports and editorial notices commented upon it with evident gratification. It was stated that the resignation was asked for. See *Newark Evening News*, Jan. 2, 1904; *Newark Daily Advertiser*, Jan. 2, 1904.

public interest turned its attention first to strengthening the administration of the law, it soon began to agitate for a stronger law to administer. The imperfections of the existing law were more apparent now that it was more widely studied. Criticism was aimed especially at the reliance upon affidavits alone for evidence of a child's age. Inspector Ward had used this for his breastworks so often that his critics could not help but take note of what strength there was in the defense.[23] Hardly less emphasized was the demand for raising the age limit for boys from twelve to fourteen, where it was for girls. And Governor Murphy urged this upon the legislature.[24]

Three bills were introduced into the legislature of 1903,[25] of which one[26] was the best administrative measure. The content of this bill deserves notice as an index of the more informed attention to the administrative needs of the state's policy; and the legislative career of it is illustrative of the wider and more determined public interest in the matter. The bill established a uniform age limit of fourteen years. Children between that age and sixteen were required, before they might be employed, to secure from the local school superintendent, or an authorized agent, either of whom was made the sole judge in the matter, a certificate of age, issued only upon "satisfactory evidence", and stating also the child's schooling. Those whose certificates did not show an "ability to read at sight, and write legibly, simple

[23] The administrative weakness of the law has been considered above, p. 37.

[24] *Message Gov. Murphy*, 1903, pp. 9-10. "Children cannot be expected to go to school after the practical work of life has begun, and their mental, moral, and physical welfare all demand that the change recommended be made."

[25] Senate Bill 177; House Bills 2 and 88.

[26] House Bill 88.

sentences in the English language," were required to attend night school. Employers of children between fourteen and sixteen years were required to keep those certificates on file and to present them for examination to the inspectors and truant officers. The employment of a child under sixteen without such a certificate was subjected to a penalty of $50, and if continued after notice by the truant officer or inspector, to a further penalty of five to $20 for each day. This general scheme, with a number of buttressing details, was the first proposal in the legislature of an administratively adequate check upon children whom it was desired to keep from employment. It took the burden of proving the age of a child from the inspector and placed it upon the parent. It gave the inspector a simple and definite criterion of the legality of the employment of a child, namely, the presence of a certificate of age on file with the employer. It required the parent's word as to the age of a child to be supplemented by some "evidence." It protected the employer from liability if imposed upon by a parent or child, in that the certificate brought by the child from the school official was by implication authority for the employment. Any doubt on this point, in case of a false certificate, was removed by the specific provision that an affidavit from the parent, made at the time of employment, was to be conclusive in any charge against an employer. Yet this did not in this case open a loophole, because the employer must have the certificate also, under risk of penalty calculated to make him careful to secure it. This could be done only after the child had submitted evidence of his age to the school officer who issued the certificate. The measure was imperfect, however, in its reliance upon the judgment of the authority issuing the certificates as to what should be accepted as "satisfactory

evidence", for individual feeling, indifference, and carelessness would be bound to lessen the accuracy of this judgment in many cases. An extension also of the state policy was proposed in a clause forbidding children under ten years old to sell newspapers on the street at any time, and those from ten to fourteen to sell them between seven o'clock in the evening and seven o'clock in the morning, or during school hours in the daytime. Yet even this bill failed to provide several features urged by the agitators. Especially to be noted was the failure to prohibit night work for children and their employment in mercantile occupations.

Both of the House bills were referred to the committee on revision of laws. After extended hearings the committee reported what it called a substitute for both bills, but which was in fact the measure just noted so amended as to provide an age limit of sixteen years for girls while retaining the fourteen year limit for boys.[27] The bill was debated at length and amended in some details, but finally passed the House.[28] It met determined opposition, however, in Senator Shinn, the chairman of the senate committee to which it was referred.[29] The

[27] Committee substitute for House Bills 2 and 88. This change was made at the instance of the Federation of Trades and Labor Unions through its legislative committee [*Proceedings Conv. Fed. T. and L. Unions*, 1903 (not paged)], in the face of strenuous opposition from the manufacturers, especially in glass and silk. (*Newark Evening News*, Feb. 11, 1903; *Trade Union Advocate*, Mar. 20, 1903.) The only other change was the introduction of a clause specifically repealing the requirement of sixteen weeks of schooling for children between twelve and fifteen.

[28] *Min. House of Assem.*, pp. 525-6.

[29] The power of the chairman is almost absolute. The fetish of senatorial courtesy is so devoutly worshipped in the New Jersey legislature that it has been the height of discourtesy to suggest that a committee be relieved of further consideration of a bill; and for the Senate actually to recall a measure against the wish of the

most he would concede was to raise the age limit for boys to fourteen years. Accordingly, a bill to that effect, and also abolishing the requirement of school attendance for employed children between the minimum age and fifteen years, was quickly put through both houses and became the act of 1903 already noted.[30]

This sort of an anti-climax to the measure that passed the House was disappointing to the advocates of a stronger law. It was even questioned whether it would not have been better to have waited until the next year rather than accept the act that passed.[31] Yet their agitation was hardly lost. It is probable that the discussion and passage by the House of the relatively advanced measure which it produced prepared the way for the still stronger bill of 1904. At any rate, events moved favorably for the enactment of that law.

The Bill of 1904.—The agitation leading up to the legislative attempt of 1903 was continued with cumulative intensity. The Federation of Trades and Labor Unions endeavored to arouse the local organizations to activity

committee chairman is unthinkable. Once in committee, a bill is at the mercy of the chairman, who knows no masters except the interests he represents and his party leaders. Thus has perished much proposed labor legislation, as well as other measures, without ever receiving the consideration of the legislators.

[30] See above, p. 37. The delay and opposition started a stream of petitions to the Senate lasting over a week urging the passage of the measure. *Senate Jour.*, pp. 417, 430, 455, 509, 528, 573.

[31] *N. J. Rev. Char. and Cor.*, II, 85. One thing contributing to the failure to secure a more comprehensive law was certainly the lack of agreement among the advocates of such legislation. It was reported that at the committee hearing while the bill was before the House "a score of delegates, and representatives from labor unions, and several deputy inspectors" appeared. All agreed that some improvement should be made in the present laws, although they did not agree as to what the changes should be. *Newark Evening News*, Feb. 11, 1903.

while its executive committee carried on a campaign to secure favorable consideration for a measure in the legislature of 1904.[32] The charitable and philanthropic societies became increasingly active.[33] The newspapers gave more space to reports and discussions and to editorial comment. Meanwhile, Mr. Swayze's experience as *de facto* head of the department of inspection, and the results of the investigation conducted under his direction, persuaded him that the child labor and inspection laws were administratively impotent, if not constitutionally weak.[34] At Governor Murphy's direction he began the preparation of a new law. But the possibility of getting a measure through the legislature was jeopardized by the lack of agreement, among those who were supporting the movement, as to the details of the law they wished enacted.[35] The prospects were that a number of bills would be introduced, representing the various ideals of the advocates,

[32] Pursuant to action taken by the 1903 convention of the Federation of Trades and Labor Unions, considerable literature was sent out to stir up the local unions to activity in their respective neighborhoods. The officials took part in many conferences also with other bodies interested.

[33] See files of *N. J. Rev. Char. and Cor.*

[34] The attorney-general had expressed the opinion that the old law was unconstitutional and ineffective because of exceptions, in some cases, to the glass and fruit canning industries. *Testimony of Mr. Swayze before Senate committee hearing.* Mar. 9, 1904.

[35] The trade unions would have liked to stand out for a sixteen year age limit. But most of the other advocates thought that was too high, or at least, impossible. Then there was difference among the philanthropic societies over the question of including mercantile and street trades, of an educational test as well as an age limit, of prohibiting night work, and of some of the factory regulations especially pertaining to women. The differences were not so much as to the policy to be striven for in these matters as to the practicability of making a contest for them at the same time that it was sought to establish soundly the fundamental regulation of child labor.

and that, as in 1903, public opinion could not be sufficiently united upon any measure to get it through. Mr. Swayze, therefore, urged upon the various leaders that they make some concessions to each other and come to an agreement as to what they would ask from the legislature for the time being. Pursuant to this the Consumers' League issued a call[36] to a number of interested persons for a conference to be held in Newark early in December. The result of the action of this conference was the organization of the Children's Protective Alliance, which operated through a large committee representing the charitable and philanthropic socities, the labor organizations, and individuals interested in the purpose.[37] Besides its participation in this committee, the independent activity of the Federation of Trades and Labor Unions was enlisted by Mr. Swayze in support of the bill he was preparing.

In the preparation of the bill, the laws and experience of other states were studied. Manufacturers, labor leaders, philanthropists, and all persons interested were frequently consulted. The constitutional consideration also was kept continually in mind, and the advice of the attorney-general was sought in the framing of the measure. Every effort was made to bring all the interests into agreement, so far as possible, before the bill was introduced

[36] Circular letter dated Nov. 20, 1903.

[37] *Newark Evening News*, Dec. 5, 1903; *N. J. Rev. Char. and Cor.*, II, 236; III, 16. Mr. Hugh F. Fox, the chairman of the conference, was authorized to name the members of the committee, which was empowered to add to its own membership. This very independent and expansible committee was so designed purposely, according to Mr. Fox in an interview with the writer, so as to permit it to determine its course according to the exigencies of the moment without any restrictions whatever. A legislative committee of six of its members gave direct attention to the work of lobbying.

into the legislature and thereby forestall as much opposition as could be.

As the principal opposition was expected in the Senate, the bill was introduced there.[38] This was on February 8. Senator Shinn was the chairman of the committee to which it was referred. A month passed by before anything was heard of it again. Then on March 9 his committee gave a hearing on the measure.[39] At this hearing were present the labor leaders of the state, Mr. Swayze, who drew the bill, Mr. Hugh F. Fox, and many other men and women prominent in charitable and philanthropic enterprises. And even Governor Murphy found time to attend for a part of the hearing. To oppose the bill there were only a delegation of glass blowers,[40] who limited their opposition to the section which prohibited the employment of children below sixteen betweeen six o'clock P M. and six A. M. The glass blowers work in day and night shifts which alternate every week, and the numerous tending boys follow the same order. The law as proposed would cut out a large number of the boys from their usual turn on the night shift and necessitate the resort to more older boys to do that work. But there is always a scarcity of boys anyway, and this would be aggravated by the new law. Because of this and some other considerations, the glass manufacturers and some of the blowers were desperately opposed to this section in the bill. It is worth noting that there was no representative of the textile manufacturers of Passaic county at the hearing. This may have been because they had already sent a delegation to Governor Murphy. Their

[38] Senate Bill 86.

[39] See *Paterson Daily Press*, Mar. 10, 1904, for account of hearing. Also *Daily State Gazette*, same date.

[40] This was the attitude of some members, but not of the glass blowers' organization.

contention was chiefly against the limitation of hours for minors under sixteen to ten a day and fifty-five a week.[41] Notwithstanding the strenuous opposition from the glass industry, the bill was reported without amendment on March 15. When the bill came up for consideration the next day, a number of petitions were presented against any amendment of the bill. Yet several changes were attempted and some were made,[42] including the removal of the restriction on night work, which was fought for by the glass industry. The measure as amended passed the Senate March 22 by the unanimous vote of the eighteen senators present,[43] and was put through the House in two days, passing by a vote of fifty-five *ayes* to no *nays*.[44] With the signature of Governor Murphy it became the act of March 24, 1904.[45]

[41] *Paterson Guardian*, Feb. 1904. They also took exception to some of the administrative provisions, but accepted the principle of restricting child labor and did not question the age limit of fourteen.

[42] For these proceedings, see *Senate Journal*, 1904, pp. 352-6.

[43] *Senate Journal*, p. 429.

[44] *Min. House of Assem.*, p. 728.

[45] *Pub. Laws*, 1904, pp. 152-170.

The fact that no opposition to the bill from employers in general appeared before the legislature does not indicate that the measure was framed and passed without any, but rather indicates how carefully that opposition had been met and forestalled, during the preparation of the bill, by conferences with the parties interested. Mr. Swayze informed the writer that he encountered bitter opposition from some manufacturers, who said the law would drive them out of business in competition with other states. But the overwhelming tide in opposition to child labor, that had risen throughout the state, probably showed them that some action was inevitable, and the consultations with them gave them an opportunity to influence the provisions of the bill as much as they could hope to. This pre-legislative opposition was not confined to employers, according to a retrospective editorial in the *Newark Evening News* at the time the law went into effect. "It was a hard struggle by which the new law was obtained. Factory owners in all parts of the state fought against it; parents who should have been engaged

Provisions of the Act of 1904.—By the provisions of the act, no child under fourteen shall be "employed, allowed, or permitted to work in any factory, workshop, mill, or place where the manufacture of goods of any kind is carried on." Violation by employer or by parent or other custodian incurs a fine of fifty dollars.[46] To sift out children under the minimum age, the law prescribes certain documentary evidence of age.[47] Native born children are required to have an affidavit, by their parent or custodian, setting forth full information, as detailed in the law, concerning them.[48] This affidavit must be accompanied by independent evidence, which may be either a birth certificate from the legal custodian of the public registry of births for the place where the child was born, or, if such birth certificate cannot be had, a certificate of baptism from the person having custody of the church or parish record of baptisms where the child was baptized.

in better work opposed it; even state officials, whose duty it was to enforce the old laws, argued speciously against the more comprehensive protection of children." (Sept. 1, 1904.)

That there was strong opposition in the Senate is apparent from the delay in the progress of the bill. Indeed, it was feared by many friends of the bill that it would never get through that body. The writer has been told by one who was in a position to know, that if it had not been for pressure brought by Governor Murphy at critical moments the measure would have been lost by the way.

[46] Section 1.

[47] Section 3.

[48] The form of affidavit required by the inspection department calls for the name of the child, his residence, place and date of birth, name of father, maiden name of mother, name and location of the church attended by the child, the date of his baptism with name and location of the church where he was baptized, name and location of the school last attended. In the case of foreign born children, a further statement is required that the child described in the affidavit is the same as the one mentioned and described in the passport which must accompany the affidavit.

In this latter case, the affidavit shall set forth the age at which the child was baptized. But if the certificate of baptism does not state the age at the time of baptism, other evidence must be furnished to show that age. This contingency, however, is infrequent. The baptismal certificate is used widely, but almost wholly in the case of Catholic children, who are baptized very shortly after birth, and whose certificates always state the date of birth as well as the date of baptism. For foreign born children is prescribed a similar affidavit from their parent or custodian, supplemented by the passport, or a true copy thereof, under which they entered the country. And the affidavit must state that the child named therein is the same as the one described in the passport.[49] This documentary evidence of age, whether for native born or foreign born, must accompany the affidavit. The affidavit and accompanying papers are taken by the child to his prospective employer as evidence that he has reached the age beyond which the law permits him to work. It not infrequently happens that a birth certificate or a baptismal certificate cannot be obtained by a native born child and that the passport has been lost in the case of a foreign born child. In such cases the commissioner of labor,[50] and he only, is authorized to issue a permit of employment upon any evidence of the child's age that satisfies him. This permit then accompanies the affidavit as the supplementary evidence of age.

The law does not command employers to require this evidence from children employed by them, but it puts them

[49] Passports are the only evidence of age for foreign children which are mentioned in the law. But other evidences are accepted by the department. Foreign birth certificates, and even a school report for a child born in Hungary were among the papers found by the writer in factories visited by him.

[50] The chief of the department of inspection is known by this title.

under the strongest possible inducement to do so by providing that if these documents are filed with them at the time a child is employed, and if correct copies are mailed to the department at Trenton within twenty-four hours after they are filed, they will be accepted as conclusive proof of the child's age in any suit against the employer for violation of the law.[51] So that, unless an employer chooses to take the risk of employing a child under age, he will refuse to employ an applicant unless and until the latter furnishes the prescribed evidence of age. The fact that this is optional may seem at first thought to be a fatal weakness in the law. But this unique provision is actually one of the most valuable features in it. The risk attending the neglect of the option is so great that employers almost universally require an applicant to bring the specified evidence with him. When this is sent to Trenton, the department is given the opportunity, at the very outset of the child's employment, to test his claim that he is of legal age for working. It results that children who are under age and who, therefore, cannot supply the needed evidence do not find employment in the first place, except with the most venturesome manufacturers. Even then they are liable to be caught up by the inspector when he makes his call.

The act empowers the inspectors to prepare these affi-

[51] Mr. Swayze's idea in drawing the law in this way was this. Employers would not require such evidence unless there was some motive to do so. A penalty for failure to do so would supply one form of motive. But that would be ineffective unless enforced, and enforcement would add one more care to the department. But by absolving from responsibility those who should comply with the prescribed practice, employers would be subjected to the strongest possible motive so to comply. Those who might refuse would also probably disregard the liability to a penalty. Thus as good an observance of the practice would be secured without imposing on the department any burdens of enforcing it. This will be discussed later.

davits, but not to charge any fee for it. Also the affidavits may be prepared by any person authorized by law to administer an oath. In practice, most of those made out by such persons are the work of notaries public. This, however, does not permit the falsification practiced under the old law, for the affidavit itself is of no value. It must be accompanied by the prescribed evidence of age. Inconsistency between the affidavit and the supplementary papers would be at once detected when the copies were sent to the department at Trenton, or by the inspector in the factory. The only room for deceit is in securing false papers or in altering them after they have been secured. As to the former, the probability of deliberate falsehood by public registry officials or the parish clergy is not very great. As to the latter, attempts are made to alter papers, but usually it is so bunglingly done that it is immediately detected. The general permission to prepare these papers, therefore, does not open much of a loophole to the continued employment of children before they reach the legal age. The evil in it lies in the added annoyance to the inspectors and in the fact that notaries who are careless or, not infrequently, unscrupulous take an affidavit for the sake of the fee, although the papers offered to supplement it show the child to be under age or are altered, and even sometimes plainly altered. In such cases the parents pay the fee to no purpose, for if the child succeeds in getting employment, it is sooner or later discovered. This evil, however, is relieved by the authority of the inspectors to take affidavits for this purpose. The fact that they may not charge any fee and the fact that they understand the requirements and have an interest in seeing that the requirements are met, are causing an increasing number of applicants to go to them rather than to a notary.

Besides this check on the initial employment of children under age, the subsequent check on their employment through the visits of the inspectors is strengthened by the requirement that employers of minors under sixteen years of age shall keep a register of "all minors working under certificates, transcripts, passports, or affidavits; such registers and certificates, transcripts and affidavits shall be produced for inspection upon demand" of the inspectors or of such truant officers as may have been authorized by the commissioner of labor to demand them. Failure to keep such a register or refusal to produce it or the documents for inspection incurs a fine of $50 for each offense.[52] Presumably, it was the intention in this section to require a register for every child employed under sixteen years. But, by the wording, it demands it only for those under sixteen who are working under the documentary evidence of age prescribed. As the exaction of this evidence is optional with the employer, it leaves the completeness of his register correspondingly optional. Yet, as already stated, it is the usual choice of employers to require the evidence specified and to keep the papers on file, so that the inspector has at hand in the factory this aid in checking up any child he may find whose age may be questioned.

The law aims to prevent deceit in making out the papers by a provision that any person who swears falsly to an affidavit or who presents a certificate or passport known to be false, or any person who aids in any of these acts, is subject to a penalty of $50.

One more provision in the administrative features of the law remains to be stated. In case there is doubt of the age of a child, the commissioner of labor or any inspector is empowered to demand of the parent or custodian satis-

[52] Section 5.

factory proof of the child's age within five days, after which, if it is not then furnished, the commissioner of labor, but not the deputy inspector,[53] may order the employer to discharge the child until such proof is furnished. Failure to do so incurs a fine of $50.

The practical operation of these provisions may be briefly summarized. As a condition of securing employment, a child under sixteen must bring the prescribed papers to the employer, unless the employer is willing to run the risk of the penalty if the child prove to be under age. Having the papers, the employer is impelled to send copies to the department at once in order to relieve himself of responsibility in case the papers prove to be false. This gives the department the opportunity to examine the papers at the beginning of the child's employment and, if they are found insufficient, to order the child to supply satisfactory proof of his age within five days; or, in case he was trying to deceive and cannot do so, the department has the opportunity to order his discharge at the outset of his employment. Without this opportunity, the child might continue undisturbed until the next visit of the inspector. Another merit in this provision is that, if a child is discharged from one factory, he cannot secure employment anywhere else without the department being informed of it at once, when the new employer sends the copies of

[53] The original proposal gave the inspectors authority to discharge any such child forthwith. But this was objected to by the employers. A delegation from the mill owners of Passaic county urged upon the Governor that a reasonable time be given in which to furnish proof and that orders of discharge be made only by the commissioner. (*Paterson Guardian,* Feb. 24, 1904.) This was reasonable. Otherwise an employer might have his force depleted by the discharge of a child who could, in a short time, establish his right to work. Then, the power of discharge in the hands of the deputies was one cause of abuses under the old law.

the child's papers to Trenton. The hide-and-seek game which discharged children could play with the inspectors under the old law is thus forestalled.[54] If, on the other hand, an employer should assume the risk and fail to send copies of a child's papers to the department, or if he should fail to require them at all, there is left the check of the inspector's visit. If the inspector takes the name of every child whose appearance supports a reasonable question as to his age, he can check up his suspicions by consulting the employer's file. If there are no papers there for the child in question, or, if the papers, because of not having been sent to Trenton, are unsatisfactory, the inspector, as well as the commissioner of labor, can demand the child to bring satisfactory proof of his age within five days. If that is not done, the commissioner of labor may order the employer to discharge the child. The department can also investigate the case and, if proof is found that the child is under age, prosecute the employer, who, be it noted, would in the present case be without the immunity he might have had by securing the papers and sending them to Trenton. In a word, then, if the employer secures the papers and submits them to the commissioner, the department is enabled at once to pass upon the legality of the child's employment. The department loses its right to prosecute the employer in case of illegal employment, but that is of no consequence because it secures compliance with the law without the need of prosecution. If, on the other hand, the employer does not secure and submit the papers, the department has the usual recourse open to it anyway, through inspection

[54] Mr. Swayze, who drew the law, informed the writer that he regarded this provision of the law as its most valuable feature. It was not until he hit upon this device that he felt that he had the law really air-tight.

and prosecution, to secure compliance with the law. It will be noted that in dealing with suspicious cases, the department does not have to prove anything as to a child's age in order to stop his employment. The burden of proof is upon the parent. If the department is unsatisfied with the proof offered, it can refuse to let the child work until satisfactory proof is furnished. Under the old law, practically, a child might work until the department proved him to be under the legal age. Under the present law, he may not work until he is proven to be above the legal age.

Another safeguard against the return to employment of a child discharged from a factory is the provision requiring the department to send within twenty-four hours to the principal of the local public school the name and residence of the child and the place from which he has been discharged.[55] This opens the way to get him under the surveillance of local school officers and prevent him from running the street. The effectiveness of this provision depends upon the enterprise and interest of the local school authorities. But when that is strong, this provision affords one more channel through which that influence can be counted for the enforcement of the law.

The present law contains no provision for a minimum school attendance or other educational qualification. The principle of a minimum physical condition is retained in section 7, which empowers the commissioner or any deputy to demand a "certificate of physical fitness from some regular practicing physician" for any minor under sixteen years of age who may appear to the inspector to be physically unable to do the work in which such minor is employed. Until the certificate is furnished,

[55] Section 45.

the employer may be forbidden to employ the child under penalty of a fine of $25.

Turning from the minimum conditions of employment to other restrictions, the hours for minors under sixteen employed in manufacturing were limited to not more than ten in any one day or fifty-five in any week.[56] By another section, no minor under sixteen shall be "required, allowed, or permitted" to clean machinery in motion or work "between the fixed and traversing parts" of any machinery while it is in motion.[57] Again, factories and workshops in which women and children are employed, and where dusty work is carried on, are required to be lime-washed or painted at least once in every twelve months.[58]

Supplementary Measures: Extension of Policy to Other Employments.—Since 1904 the efforts of those behind child labor legislation have been directed toward extending the restrictions to other employments and to prohibiting night work for children. The year 1905 was allowed to go by apparently because it was thought best not to attempt any new legislation until the act of 1904

[56] Section 9. Originally this section provided also, as noted above, that no child under sixteen should work between six o'clock in the evening and six o'clock in the morning. This section was attacked more fiercely than any other pertaining to child labor. The glass industry wished to employ the tending boys during the regular night shifts. The textile, and some other industries with a seasonal demand for their product, wished to run overtime at certain periods of the year, and many wished to run sixty hours a week. Though the bill left the committee unamended, the prohibition of night work was stricken from the bill on the floor of the Senate. The debate on the bill centered upon this section in its bearing on the glass industry. Only one senator voted to retain this clause.

[57] Section 21.

[58] Section 24.

had gotten well into operation and the business of the state had become adjusted to it.[64]

In his message of 1906, Governor Stokes suggested the extension of the act of 1904 to mercantile and other pursuits as a "subject worthy of thought" by the legislators.[65] In that year a bill was introduced as an amendment to the compulsory attendance feature of the school law, but which might have had important effects on the employment of children in occupations not included in the act of 1904. This measure[66] forbade that any child between seven and fourteen years of age,—the age for compulsory attendance,—should be "employed, suffered, or permitted to work at any gainful occupation" during school hours. Truant officers were given authority to enter any place where gainful occupations are carried on to ascertain whether any minors are employed there in violation of the act. The enforcement of such a law would keep children out of all employments where it was not profitable to use them only for the days and hours when the schools are not in session. But this measure would have been ineffectual in most parts of the state; for, as is shown in the discussion of the compulsory attendance law, the provision of truant officers, upon whom its enforcement would have depended, was optional with each locality, so that the efforts to enforce the attendance laws were very uneven throughout the state. The measure, however, did not become a law, although it appears to have passed both houses.[67]

[64] *N. J. Rev. Char. and Cor.*, III, p. 215.

[65] *Message, Gov. Stokes*, 1906, p. 11.

[66] House Bill 241, 1906.

[67] It is recorded as having passed the House, (*Min. House of Assem.*, 1906, p. 584) and the Senate (*Senate Journal*, 1906, p. 860), and as having been delivered to the Governor. (*Min. House of Assem.*, p. 1299.) Yet it is not found in the session laws for 1906,

In 1907 two bills were introduced to extend the child labor restrictions to other employment. One merely applied the prohibition to mercantile establishments, and this in a very crude way.[68] This failed to pass even the House. The other was in the form of an amendment to the general public school law. It would have extended the restriction to all occupations and would have added an educational minimum to the minimum age limit.[69] But this bill also failed to pass.[70] In the session of 1909, and again in 1910, was introduced a comprehensive bill applying the law for factory employment to children in mercantile employment during the hours the public schools are in session. This had the support of the child labor organizations and of the commissioner of labor.[71] It passed the House each session but failed to make any im-

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or in the file of passed and approved bills kept by the Secretary of State, or in the record of vetoed bills, or among the files of "dead" bills. Apparently it was lost or stolen, a fate which sometimes befalls bills in the rush at the end of the session.

[68] House Bill 287, 1907. It had no provision whatever for testing the age of children so employed.

[69] House Bill 316, 1907. It added to the section on compulsory attendance a provision that no child under sixteen should be employed "at any gainful occupation" without a certificate from the local board of education, or some officer designated by it, showing that there had been left with the board proof that the child was at least fourteen years old, like that required in the act of 1904, and showing that he could read and write legibly simple sentences in English. The certificates were to be signed by the child as well as the official issuing them. Employers were required to keep these certificates on file and offer them for examination by factory inspectors and truant officers.

[70] After being twice recalled for amendment, the measure passed the House without a dissenting vote near the close of the session. (*Min. House of Assem.*, 1907, p. 1026.) It was then rushed through the Senate in one day and passed with only one negative vote. But the passage was at once reconsidered without a single protesting vote. (*Senate Journal*, 1907, pp. 916, 923.) There the record ends.

[71] *Rept. Dept. of Labor*, 1909, p. 12.

pression on the Senate.[72] Thus have failed all efforts to extend the minimum age limit beyond manufacturing employments, to which alone it is still restricted.

Night Work for Children.—The efforts to abolish night work for children under sixteen years of age have been maintained with untiring persistency against an equally persistent opposition, chiefly from the glass industry. Success was first attained in the field of bakeshop and mercantile employment, but only with qualifications. In 1903 the bakeshop law was amended. One provision of the amending act forbade the employment of minors under eighteen years of age in any bakery between seven o'clock in the evening and seven o'clock in the morning.[73] But this was generally disregarded. In 1905 the bakery law was up again. On this occasion the prohibiting clause was improved to read that no such minor "shall be employed, allowed, permitted, or required" to work in a bakery between the hours stated.[74] This law was the work of the bakers' union, supported by the Federation of Trades and Labor Unions.[75] The Master Bakers' Association at once took measures to secure the alteration of this law.[76] But two attempts to reduce the age of restriction from eighteen to fifteen have failed.[77]

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[72] A copy of this bill and the facts concerning it were furnished to the writer by Commissioner of Labor Bryant.

[73] *Pub. Laws,* 1903, pp. 98-101, sec. 5.

[74] *Pub. Laws,* 1905, pp. 203-6, sec. 9.

[75] *Trade Union Advocate,* Apr. 24, 1905; *Proceedings Conv. Fed. Trade and Lab. Unions,* 1905 (not paged).

[76] *Proceedings Conv. Fed. Trade and Lab. Unions,* 1905 (not paged).

[77] House Bill 275, 1907. This passed the House by a vote of 53 to 0 (*Min. House of Assem.,* p. 610), but was not reported from committee in the Senate. The second attempt was in 1908. House Bill 80 passed both houses before the labor people were aware of its

In 1906 a bill was introduced into the House,[78] as the result of an agitation by the Consumers' League supported by the Childrens' Protective Alliance,[79] prohibiting work by children under sixteen at night in mercantile establishments. This met the opposition of the glass blowers who feared that it might prepare the way for a measure affecting their industry.[80] It passed the House after being lost for want of a sufficient majority,[81] but was never reported from committee in the Senate. The same bill was introduced the next year in behalf of the same agencies.[82] This time it became a law, and without amendment.[83] By its provisions, no child under sixteen years may be employed in any mercantile establishment for more than fifty-eight hours a week, or between seven o'clock in the evening and the same hour in the morning. But exception is made for the one day each week, when the hour is extended to nine o'clock, and for the time between December 15 and December 25, when the hour is ten o'clock. To insure the observance of the age limit, every mercantile employer of children "actually or apparently" under sixteen years old is required to keep on file the same evidences of age as are prescribed in the act of 1904. The commissioner of labor, similarly, is given the same power and duty to enforce this law. The organizations behind the measure would have wished that the exceptions in the law had not been allowed. But it prob-

purport. Their legislative committee then interceded with the Governor, who vetoed the bill. *H. J. Gottlob, Chr. Leg. Com.*

[78] House Bill 386.

[79] *N. J. Rev. Char. and Cor.*, V, 35.

[80] *Trade Union Advocate*, Mar. 30, 1906. To meet this opposition, the bill was amended so as specifically not to apply to manufacturing establishments. *Min. House of Assem.*, p. 885.

[81] *Min. House of Assem.*, pp. 847, 886.

[82] *N. J. Rev. Char. and Cor.*, V, 353.

[83] *Pub. Laws*, 1907, pp. 552-5.

ably could not have passed without them. In its present form, it is said to have met the approval of the leading department store managers of Newark, to whom it was submitted.[84]

The efforts to commit the state to the prohibition of night work for children in manufacturing did not succeed until the last session of the legislature. When the clause prohibiting work at night in bakeries by minors under eighteen was revised in 1905, it was hoped by the opponents of all night work by children that the discussion of this provision might facilitate the passage by the next legislature of such a law as they desired.[85] As the time for the session of 1906 approached, a campaign was begun under the leadership of the Childrens' Protective Alliance,[86] representing the charitable and philanthropic interests, and supported by the officers of the Federation of Trades and Labor Unions[87] and the National Child Labor Committee.[88] A bill was introduced restoring to the law of 1904 the clause prohibiting night work by minors under sixteen years between six o'clock in the evening and the same hour in the morning.[89] The opposition of the glass industry, however, prevented its passage,[90] in spite of a very general support. The next year

[84] *Newark Evening News*, May 15, 1907.

[85] Hugh F. Fox in *Annals Amer. Acad.*, XXV.

[86] *N. J. Rev. Char. and Cor.*, V, 35.

[87] *Ibid.*, V, 71; *Daily State Gazette*, Jan. 29, 1906.

[88] The National Child Labor Committee prepared and sent out in March a four page circular defending the proposed law and urging individuals and organizations to express themselves in behalf of the bill by resolutions and petitions and personal letters to their representatives.

[89] House Bill 314.

[90] On third reading an assemblyman from the glass districts attacked it (*N. J. Rev. Char. and Cor.* V, 153) and it was recommitted. (*Min. House of Assem.*, p. 599.) At a hearing afterward held there appeared in behalf of the bill the presidents of the Chil-

the issue was resumed. The Childrens' Protective Alliance had the same bill introduced again.[91] A determined agitation was carried on in its behalf. The measure passed the House[92] after a delay of a month and a half, during which time a hearing was held upon it by the committee having it in charge.[93] But the opposition of the glass industry again defeated it, for it was never reported by the Senate committee, although two hearings were given it.[94] The industrial depression and the passage by the legislature in 1907 of a measure which indirectly restricted the supply of boys for the glass industry[95] led some of the advocates of the night work bill to consider the year 1908 as unfavorable for a renewal of the contest with the glass interests.[96] However, the National Child Labor Committee and the Consumers' League had the same bill introduced that year.[97] Again the measure

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dren's Protective Alliance, the State Charities Aid Association, the Consumers' League, the secretary of the National Child Labor Committee, the president of the Federation of Trades and Labor Unions. the first vice-president, who was a glass blower, and several minor officials and members, and besides a manufacturer. The only opposition to the bill was by William M. Doughty, a glass blower and at one time an officer in the national organization of glass blowers, and some fellow glass blowers. (*Newark Evening News,* Mar. 21, 1906.) But the bill was never reported again.

[91] House Bill 90. *N. J. Rev. Char. and Cor.,* V, 351.

[92] The vote was 44 *ayes* to 15 *nays. Min. House of Assem.,* p. 334.

[93] For arguments see *Newark Evening News,* Feb. 26, 1907.

[94] For accounts see *Ibid.,* Mar. 26, and Apr. 2, 1907.

[95] This regulated the adoption by residents in New Jersey of children brought from without the state.

[96] *N. J. Rev. of Char. and Cor.,* VII, 128; Letter by Mrs. Emily E. Williamson to National Child Labor Committee, dated Mar. 19, 1908.

[97] House Bill 211.

passed the House[98] after hearings before the committee,[99] but was held up in the Senate. A like fate befell a bill in 1909, in spite of a vigorous campaign by the leaders of opinion.[100] When the legislature met again in 1910, the advocates of the law pressed their measure again with a more perfect organization. This time they had the sentiment throughout the state aroused to the point of exerting pressure upon the legislators. Besides the Child Labor Committee of the state, the Consumers' League, labor unions, women's clubs, churches, and other organigations took an active part. Newspapers voiced this sentiment. Spokesmen for this opinion went to Trenton and lobbied for the bill at critical times. The measure, fixing an age limit of sixteen years for night work, passed the House in due time, as usual. But it met determined opposition in the Senate. Senator Plummer, chairman of the committee to which it was referred, represented Salem county in the glass manufacturing section. He frankly declared his opposition. But the public pressure was too strong. A caucus[101] of the Republican majority decided to pass the bill after a compromise in which an amendment was added making the age limit fifteen years for one year before it becomes sixteen years. This adds to the child labor code the provision that after July 1, 1910, the employment of minors under fifteen years of age in factories between seven P. M. and seven A. M. is prohibited; after July 1, 1911, the age limit for such pro-

[98] *Senate Journal*, p. 832. Minutes of Assembly not available at time of writing.

[99] *Newark Evening News*, Mar. 17, 1908; *State Gazette*, Mar. 18, 1908.

[100] See *Newark Evening News* during the session of the legislature.

[101] *Newark Star*, Apr. 1, 1910.

hibition will be raised to sixteen years.[102] This act is a most important addition to the law and is regarded by its advocates as a most satisfying achievement, after five years of persistent effort.

Judicial Interpretation:—The act of 1904 has been subjected to judicial interpretation at two points. The Skillman Hardware Manufacturing Company of Trenton carried to the Supreme Court some cases early brought against it for employing children under age. The plea was that the act was unconstitutional in that the object of it was not expressed in the title and that it violated the fourteenth amendment by abridging the privileges and immunities of citizens. The first point was entirely technical, but the second challenged the policy in a vital particular. The court, however, rejected both contentions and sustained the law.[103] Another case involves the right of inspectors to enter an establishment for the purpose of an inspection. It was brought against the N. Z. Graves Company of Camden. The trial judge directed a verdict for the company, but the state appealed to the Supreme Court and secured a decision overruling the trial judge and ordering a new trial. This did not dispose of this particular case, but it is considered as establishing the right in question, and the defendant company so accepted it.[104].

The Compulsory Attendance Law: Act of 1903.—The interest in the welfare of children, as shown in the sentiment against child labor, appeared also in the demand for a more effective compulsory attendance law. The move-

[102] The writer has not had access to this law, but the provisions were supplied to him by Commissioner of Labor Bryant.

[103] *Rept. Dept. of Labor*, 1908, p. 7-8. The writer has not seen the opinions of the court in either of these cases.

[104] The case is reported in 71 *Atlantic Reporter*, p. 60, but the writer has not had access to it.

ment toward that began in 1900. It had been felt that the whole school law needed revision and codification. The agitation for that led to the appointment of a commission by the Governor to prepare a measure. This was reported to the legislature in 1900 and became the act of March 23, of that year.[105] This law very materially strengthened the provision for compulsory attendance. The act was found unconstitutional on grounds not concerned with the attendance requirements, as was also a succeeding act designed to meet the objections of the court, so that it was not until 1903 that the law was finally settled. But the stiffening of the compulsory attendance provisions by this measure deserves notice as indicating what the legislature had come to stand for on that matter. This is not to be taken as indicating any such agitation as preceded the passage of the child labor law of 1904. The sections in question in the law were framed by the commission, after open hearings and without pressure from any source, in accordance with its judgment and that of the educational authorities as to the needs of an effective school law.[106] The details of this act will be passed over, for they were largely the same as in the final act of 1903[107] which is here described.

Provisions of the Law.—By the new law the administrative weakness in the short period of attendance required by the law of 1885 was corrected and a large advance in policy was made. The state was now prepared to require that every parent or guardian send every child between the ages of seven and fourteen to a public school each day those schools were in session, unless excused by

[105] *Pub. Laws*, 1900, pp. 192-281.

[106] Letter from ex-Governor Stokes, who was in the Senate in 1900 and chairman of the commission to revise the law.

[107] Oct. 19, 1903, Second Special Session 1903. Bound with Laws of 1904.

the board of education because of physical or mental incapacity, or because of its receiving equivalent instruction in a private school or at home.[108]

Authorization is given for parental schools for habitual truants and incorrigible children between seven and fourteen years of age,[109] who may be required by the local board of education to attend, or, with the written consent of the parent, to be confined therein. If any child refuses to attend, the board of education may have a warrant[110] issued by a justice of the peace, police justice, or city or town recorder, and have the child brought before the court. The magistrate may return him to his parent, who assumes the responsibility for his proper conduct thereafter, or to his teacher on trial, or turn him over to the juvenile court, which may as an extremity commit him to be confined in a disciplinary institution.[111]

[108] Sec. 153.

[109] The act of 1900 had fifteen years for the higher age. But its upper compulsory age was only twelve years, children between twelve and fifteen being required to attend only sixteen weeks each year as a condition for taking employment. The constraint of the parental school upon children over twelve, therefore, would have been only for the sixteen weeks out of each year; and the shortness of this period would, for reasons already noted, have hindered the exacting of even that. But the present measure, with its higher compulsory limit, permits the holding of children under this discipline, if necessary, until they are fourteen. Hence, although appearing in this feature to retreat one year in the application of the compulsory principle, it really makes a considerable advance.

[110] By the act of 1900 the truant officer could arrest him without a warrant.

[111] This differs from the provision of the act of 1900, which empowered the magistrate to commit the child directly to confinement in the parental school or in a reformatory. This change was made because the regular session of the legislature in the early part of 1903 provided for the establishment of county juvenile courts. (*Pub. Laws*, 1903, pp. 447-80.) This substitution with reference to an independent sentiment, however, left the

Parental responsibility is insured by liability to the penalties for a disorderly person.[112]

The imperfect provision for truant officers was in part remedied.[113] Boards of education were authorized, but not required, to provide one or more truant officers and fix their compensation. If it was wished, these officers might be secured from the local police force, where one existed, on a written request from the board of education.

Attention was also given to the problem of funds for school buildings and for the expenses of truant officers and parental schools. The legislature committed itself to an unlimited power of taxation to cities for the purpose of providing funds for current school expenses,[114] but

law somewhat awkward, if not obscure, as to the committment of children to parental schools in districts not coterminous with a legal "municipality." The juvenile court act empowered the judge to commit children to a state reformatory, or to a public institution maintained by the county or by a city, town, township, or other municipality, for the "care, custody, instruction, and reform of juvenile offenders." It was thus not clearly and definitely stated between the two acts that the juvenile court could commit a child to the parental school in any district whatever. Yet the question concerns the consistency of the law rather than the practice under it, for small districts would not maintain independent parental schools. The law itself was set right by an act for county parental schools in 1906, which is noted below.

The principle, if not the form, of this new provision was an improvement over the act of 1900. By taking the power of committment out of the hands of a magistrate as provided in the act of 1900, and putting it in those of the judge of the juvenile court,—who was the judge of the county court of common pleas for the time being,—it gave the disposition of the case to a man probably of larger calibre, and made the procedure more regular, thereby reducing the vulnerability of the law to attacks on its constitutionality.

[112] Secs. 154, 158.

[113] Secs. 155, 156, 158, 160.

[114] Secs. 75, 76, 95, 97.

not to an unlimited power to issue school bonds. Yet it made a concession in this matter. It limited the issue of bonds for the purchase of land and the construction of buildings to an aggregate of 3 per cent of the taxable value of real and personal property. But any charter restriction on a city's indebtedness in general was expressly held not to apply to issues of these school bonds. In this connection should be noted also an act of 1901[115] which was incorporated in the law of 1903.[116] The basis for apportioning the proceeds of the state school fund to the various localities had been the number of children of school age. By this act, this was changed to the aggregate number of days attendance of all pupils during the year. The change was in part due to the abandonment of the annual school census, because of the continued unreliability of the returns. But Governor Voorhees, in his message of 1901, urged as "a most important reason" for the change that it would stimulate communities to increase their enrollment and bring up the regularity of their attendance.[117]

The act of 1903 had not been in operation very long before it was discovered that the wording permitted an ingenious evasion. According to the law, the person having legal control of every child between seven and fourteen years old shall, "unless such child is being taught at home in the branches usually taught in public schools to children of his or her age," send the child to "a day school each day while such school shall be in session", unless excused by the board of education as provided. Literally there was no requirement as to the length of the sessions of the day school attended or as

[115] *Pub. Laws*, 1901, pp. 378-80.

[116] Sec. 16.

[117] *Message Gov. Voorhees*, 1901, p. 14.

to the subjects taught there, though, if taught at home, the child must have the usual public school branches. It was found in Newark that some parents had organized a "school" which their children attended for one hour early in the day, after which they were free to work. To meet this subterfuge, the act was amended in 1905 so as to require that specified common school branches be taught in the school attended and that the attendance of the child be for the days and hours that the public schools are in session.[118]

Defects of the Attendance Law of 1903.—The sections bearing on compulsory attendance in the act of 1903 are well drawn for administrative purposes except that the use of the provisions for enforcement are left to the option of the localities. This, in effect, leaves the whole policy of compulsory attendance to the discretion of each community, except in so far as each community is subjected to the tug of the state's resolution in the matter. This is at the heart of numerous criticisms upon it. It has been urged that a centralized state administrative force, similar to the factory inspection, is required.[119]

Another failing was that the provision for parental schools hardly met the case of small towns and cities. These would not have enough children requiring such discipline to justify the expense. And no authorization was given for union schools of this character for several districts.[120] Again, the absence of a school census has been felt to be a handicap upon efforts to discover

[118] *Pub. Laws*, 1905, p. 335.

[119] Supt. Maxson of Plainfield, in *First Conf. Char. and Cor.*, Feb. 1902, p. 135. Also by various educational officers and others in interviews with the writer.

[120] Supt. Asbury Park, in *Rept. Supt. Pub. Instr.*, 1904, p. 82. Supt. Maxson, in place cited, p. 133.

every child of school age.[121] Some cities have taken their own census; but this is too expensive for all to undertake. The state's experience with a school census has not been such as to encourage a return to one. But the change in the basis of apportioning the school monies has removed the chief reason for the former unreliability of the returns and the present interest in the compulsory law adds to the reasons for renewing it.

Supplementary Acts Since 1903.—The matter of parental schools has received further attention. By an act of 1906,[122] counties with a population of 150,000 or more and having a juvenile court were authorized to establish a "school of detention" for delinquent children, including those habitually truant or disorderly in school. Funds might be raised by issuing county bonds for an amount not over one-half of one per cent of the ratables of the county. An act of 1908[123] removed the population limit in the law of 1906 and thereby permitted any county having a juvenile court to provide itself with a detention school. The act went further and made each such school with its land a special school district entitled to its share with other districts in the money provided by the state for public schools. In the case of counties where such an independent school would not be justified by the number of children, the county authorities are empowered to arrange with any recognized private society or institution for the care of the children under limitations in the law guarding against abuse or neglect.

Another amendment of the 1908 legislature altered

[121] Supt. Millville, *Rept. Supt. Pub. Instr.*, 1905, p. 135; Supt. Newark, *Rept. Supt. Pub. Instr.*, 1906, p. 155.

[122] *Pub. Laws*, 1906, pp. 54-6. This was the result of an agitation of three or four years. The state board of education took up the matter in 1905.

[123] *Pub. Laws*, 1908, pp. 625-8.

the standard for required attendance.[124] By this law, every child is required, in effect, to attend school until he is fifteen years old, in any case, and longer, if necessary, until he completes the grammar school course prescribed by the state board of education. If he has met this minimum exaction and is still within seventeen, he must, unless he becomes employed, attend further until he becomes seventeen, at a high school or manual training school. An exception permits a child to be employed as early as fourteen years of age when the board of education is satisfied that employment is necessary. In this case the board of education shall give a certificate exempting the child from attendance at school so long as such employment continues. This law was passed under the pressure from its sponsor, Senator Price, without careful consideration by the legislators, many of whom have confessed that they misjudged its purport.[125]

[124] *Pub. Laws*, 1908, pp. 445-6.

[125] *Trenton Times*, Oct. 27, 1908; *Newark Evening News*, Jan. 7, 1909.

CHAPTER VI.

MERITS AND DEFECTS OF THE PRESENT STANDARD

An examination of the present standard in operation shows it to have a high degree of excellence. Questions of purpose, such as what the age limit should be, or what industries or occupations should be included, are not now involved. Accepting the purpose of the policy and the age limit of fourteen years, the object here is to examine the merits of the legal declaration of the policy as a standard for attaining the purpose of the policy.

Pertaining to the Age Limit.—The clause prohibiting the employment in factories of children under fourteen years is drawn with such care and precision that no room is left for the subterfuges practiced early in the preceding period to evade the law, or for those subcontractual relations which fell outside of the terms of the first enactment. The responsibility for the presence in a factory of a child under fourteen at work is definitely fixed upon persons whom the law can reach.

The second point of interest, the provision for establishing the age of any child called in question, is arranged for with equal precision and almost equal merit. The burden of proving the age is put uneqivocally upon those in the best position to do so, namely, the parents or guardians. Not only is the burden of proof put upon the parents, but the sort of proof to be accepted is clearly specified and is required to include, besides the declaration of the parents, documentary evidence independent

of that declaration. Deceit can be practiced by the parents only by alteration or forgery of these supplementary papers, or by securing the connivance of the public registrar of births, or of the clergyman, or custodian of the baptismal records, or of the officials who issue the passport. Such deceit is checked by the ease of detecting most alterations and forgeries and by the obstacles to securing the connivance of the other parties. Besides, there are penalties upon such forms of deceit. All this furnishes the administrative department with proof of great reliability. It will be noticed that the school records, which are accepted in many states, are here passed over. Such records are not of quite the same reliability as the evidence prescribed; for parents are under an inducement to overstate the ages of their children to the school officials. It is not alone that they look ahead to their early employment, but also that the mother with many children or with helping to earn the family income is induced to state her child's age too high in order to get him into school and be relieved of the care of him during the day.

There are, however, two respects in which the reliability of the evidence prescribed in the law is lessened. The penalty upon parents is ineffective because the fine, $50, is such a large sum for most parents of child workers that no magistrate will impose it. If he did, there would be few cases where it could be collected, because of the poverty of the defendant. There is a wide opinion that it ought to be graded from a much lower sum.[1] The other weakness is the omission to re-

[1] The commissioner of labor complained of this amount of the fine in his report for 1905 and suggested that it be left to the discretion of the court. (P. 4.) He made similar complaint the next year and suggested that it be fixed at $25. The same

quire a personal description of the child in the affidavit. This opens the way for a younger child to assume the name and use the papers of an older child to whom they are issued. That this has been done seems clear from the testimony of inspectors. But that it is practiced extensively is very doubtful. Unless the true age of the child is close to that stated in the papers he assumes, the disparity will attract the attention of the inspector and cause an investigation at the home of the child. However, this matter and that of the penalty upon parents are defects in the law deserving attention at the first revision.

The provisions for the issue of the papers is not so praiseworthy. The affidavits may be taken by the inspectors, but without a fee, or by any person authorized by law to administer an oath. Of the affidavits taken by the latter class, notaries public take far the greater number. But the notary's interest in the observance of the law is frequently offset by other considerations. In the first place, there is the fee. That is his whether the affidavit is true or false, for his part is to certify that the statements made are sworn to, not that they are true. In the second place, foreign born parents are likely to go to a notary of their own nationality whose sympathies impel him to take the affidavit without scrutinizing

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recommendation has appeared in each succeeding report. Several deputy inspectors and others have expressed the same view to the writer.

A practical difficulty is encountered in the fact that the procedure in these cases is by action for debt, in which the fine is sued for by the state. As suit must be for a definite fixed amount, there is no room for the magistrate to alter the sum, when judgment is given, according to his judgment of the deserts of the defendant. It has been suggested that the commissioner of labor be empowered, after the suit is prosecuted and before judgment is declared, to reduce the amount sued for.

the supplementary evidence for alterations or for other defects or ineligibility. It is not to be understood that this influence of personal sympathy is restricted to cases of foreign born children. Parents with children under age have for both these reasons secured from notaries the papers admitting them to employment. Unless the employer is careful to scrutinize the papers, or to send to the department at Trenton the original documents instead of copies of them,—which alone the law requires, and which would not disclose the alterations,—the child can continue in employment until an inspector's eye falls upon the defective original document in the employer's files. As a matter of fact, the number of such cases does not appear to be large, although obviously it cannot be known with much accuracy. Yet here is a loophole that should be closed. Besides such children under age, the inspectors are constantly finding papers for children of full age which fail to satisfy the law because of some carelessness by the notary who prepared them. This is a more troublesome consequence than the former. If the law required that all such papers should be prepared by authorized agents of the department, fully instructed in the requirements of the law and dominated by the *esprit de corps* of the department, no affidavit would be taken unless the proper sort of supplementary evidence was offered and was without alterations. That is what is done, in effect, at the offices maintained by the department in Newark, Hoboken, and elsewhere, so far as parents use the facilities of these offices instead of going to notaries. But the benefit is lost for those who choose the latter. And that is what those are likely to do who wish to evade the law.

Such a restriction on the issue of the papers would have a further advantage in relieving the inspectors of

much of the responsibility of passing upon the adequacy of the papers while on their rounds of inspection. The documents submitted by parents are written in various languages. An inspector must be able to make out enough of these to ascertain their genuineness and the age of the child. It is needless to say that this cannot always be done by the inspectors. An authorized agent, chosen with this in mind, could prepare an English translation over his signature which would present the evidence to the inspector in a quickly readable, certified form.

The force of the foregoing criticisms on the issuing of the papers is in large part offset by the novel provision in the law which induces the employer to send to the department at Trenton copies of the papers presented by a child within twenty-four hours after they are filed. If a notary issues an affidavit accompanied by a document of the wrong sort, or improperly made out, or which fails to agree with the allegations in the affidavit, the department at once has its attention called specifically to the defensive evidence and is afforded an opportunity to order the child to supply satisfactory evidence or cease work. Otherwise, the error would be undiscovered until the visit of an inspector. Even then it might pass unnoticed if the inspection were made hurriedly or carelessly. Also any evasion of the law through failure of an inspector properly to translate a document in another language would be forestalled at the office of the department. But the above criticism has force in so far as employers accept the risk of defective papers and fail to send them to Trenton.

Experience has shown this provision to be the most effective administrative device in the law. The scheme of bringing under the immediate review of the central

office all documentary evidence filed with employers, upon which children are admitted to employment as being of the age required, deserves a much wider use.[2] The same strict enforcement cannot be secured alone by any restriction of the issue of the papers to authorized agents. There would need to be several of these agents to afford ample opportunity to parents to secure the papers. That would admit lack of uniformity and open the door for mistakes. Besides, even waiving that objection, it would only insure that the papers when issued were correct, but would not put any pressure upon employers to insist on the presentation of such papers by the children. This the New Jersey law accomplishes by granting immunity to employers who secure the papers and submit them at once to the approval of the department. Another result, impossible with any other device, is the prevention of discharged children from getting employment at a new place. When the department orders a child discharged, he cannot find employment elsewhere without the fact being known to the department at once through the submission of the papers to it by the new employer. Without this check, a persistent child might be discharged a dozen times in a year and find reëmployment each time. The force of the law would be expended in merely interrupting the continuity of his employment, not in preventing it. Finally, the New Jersey law solves the problem of relieving the well-intentioned employer from liability through the mistakes or crookedness of parents, or others concerned in preparing the papers, without opening any loophole to those who would evade the law

[2] So far as the writer is aware, this is not found in the code of any other state. If that is so, the author of the law deserves credit for the invention of such an invaluable device.

if they could. This is a problem of great importance and no small difficulty in the laws of most states.

An objection to the New Jersey plan may seem to lie in the extra office work required in the examination of the papers. Practically, this has not proven important in New Jersey. During the last year, some 7000 of these have been submitted to the department.[3] Since the act went into effect in 1904, the number aggregates 26,000.[4] Yet these have been attended to with an office force of three persons besides the commissioner and assistant commissioner. Most of these would be required in any case. The force of the objection is entirely offset when it is considered that fewer inspectors are needed than if the results of the administration depended entirely on their inspections.

As worked out in the New Jersey law, this device is capable of some improvement. The immunity offered through compliance induces far the most of employers to conform to the provision. But there are many who do not trouble themselves to do so, some of them trusting in the accuracy of their own scrutiny of the papers presented to them, some of them daring to violate the law and take their chances of being caught. The action of these employers leaves a number of children working under papers that cannot be examined except by the inspectors on their visits. This creates opportunities for children under age to be employed at least until the next visit of the inspector and possibly longer through his failure to detect the error. It also detracts from the uniformity and strictness of the department's control of the use of the documentary evidence, creating a foggi-

[3] *Rept. Dept. of Labor*, 1909, p. 6.

[4] The report of 1908, p. 5, shows 19,000. Adding the 7000 issued during the last year gives the number 26,000.

ness of administration in which evasions of the law may conceal themselves. This would be corrected by making it mandatory instead of optional upon employers to observe this provision of the law. The offer of immunity through compliance does not appeal to employers such as those mentioned. The risk of a penalty for failure to comply would afford a motive to those who now feel no need of the immunity, because of their confidence in their own carefulness, and would add to the risks tending to check the lawless.

Another improvement would require employers to forward to the department, not copies of the papers filed with them, but the original papers. That would give the department opportunity to detect at once alterations of birth dates or other data which would not be revealed in a copy made according to the changed face of the document. A great many employers now send the original documents instead of copies. But they are not required by the law to do so.

Another improvement might be made in the present law by *requiring* employers to keep on file the prescribed papers for every child under sixteen years. This may have been the intention when the bill was drawn, but the wording of the law, as has been seen, leaves the matter really optional, with a promise of immunity for those who do so and also send copies to the department at Trenton.[5] To make this keeping of a registry man-

[5] The writer found that the general understanding was that such a file was required for all children. That was his own understanding also on first reading the law. But some employers had been advised by counsel that the provision was not mandatory. This fact has been recognized by the commissioner of labor, who has always tactfully avoided pushing the matter to an issue in any case while endeavoring to get employers to observe the provision in the law. This view has been affirmed in an opinion from

datory would add nothing to the burdens or risks of the well-disposed and law-abiding employers, and would assist greatly in checking the lapses of the indifferent and lawless.

The present provisions for establishing the age of any child are criticised in no respect more sharply than in the burdens which they are said to impose upon parents and employers. It is said that the sort of proof of age required by the law cannot be supplied generally by parents, especially in the case of foreign born children These frequently have lost their passports. Many native born children neither come from communities which keep a registry of births nor have been baptized. A view of all the facts, however, shows this burden to be far less than supposed. In the case of foreign born children who have lost their passports, it is a matter of seldom more than a month to write to the native country and secure a certificate of birth. The number of children from countries where births are not registered is negligible. The burden here is thus not more than a month's delay. The difficulty is really greater for native born children; for the public registry of births is much less practiced in the United States. New Jersey has long required such a registry, but it has not been kept with uniform accuracy and continuity throughout the state. But the law provides for all these cases. When the commissioner of labor is satisfied that the specified proof cannot be furnished, he is authorized to consider ***any other evidence whatever*** that may be available and, if he deems the weight of it sufficient, he may grant a permit which with the affidavit of the parents meets the requirements of the law. There is some burden, how-

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the assistant attorney-general given at the request of the commissioner of labor.

ever, in the necessary caution and delay attendant upon a properly guarded exercise of this authority. On the whole, it does not appear probable that many children actually fourteen years of age would be unable either to furnish the specified documents, or to satisfy the commissioner of labor that a permit was warranted. The experience of the department with claims of this sort strengthens that conclusion. The commissioner writes, "The department has had varied experiences in alleged cases of this character, and on the whole it has had abundant occasion to believe that in a large majority of cases which claim they cannot obtain the requisite proofs the child in question has not actually reached the age of fourteen years."[6]

[6] *Rep. Dept. of Labor*, 1906, p. 4. See also reports for 1907, p. 4, and 1908, p. 5.

Some measure of the importance of this objection may be had from the following data, supplied to the writer by Mr. Dale of the Department of Labor, giving the basis for excluding children from employment in some two hundred cases between November 1, 1907, and November 21, 1908.

1. On account chiefly of evidence from the N. J. Bur. Vit. Stat.	50
2. On account chiefly of altered papers	41
3. On account chiefly of failure to furnish papers when dem'nd'd	40
4. On account chiefly of evidence from church record	34
5. On account chiefly of evidence from school record	15
6. On account chiefly of evidence from parents	12
7. On account chiefly of evidenee from child itself	6
8. On account chiefly of evidence from passport	5
9. On account chiefly of evidence from foreign Bur. Vit. Stat.	3
10. On account chiefly of evidence from attending physician	1
Total	207

Summary

Proven to be too young (all except reasons 2 and 3)	126	or 61%
Altered papers. (Circumstantial evidence too young)	41	or 20%
Failure to furnish papers demanded. (Indeterminate.)	40	or 19%
	207	100

It appears that in 60 per cent of the cases,—all except such as

The requirements as to proof of age are said to burden employers also. If children actually fourteen years old cannot supply the necessary proof, the legitimate supply of child employees is curtailed for the manufacturers. Besides, in any case, the employer cannot pick up additional children as quickly or with the same freedom from responsibility as if some more easily available documents, such as a mere affidavit, would suffice. Again, many employers depend upon children of foreign birth or ignorant parents. These often find it necessary, in order to secure the labor of a child, to take charge of the matter of securing the needed documents. In such cases, the burden of proving the child to be fourteen is forced by circumstances upon the employer instead of the parent, where it rests legally. In an industry like the glass industry, where the supply of children is chronically short, this becomes a matter of constant irritation. So far as concerns children over fourteen, the conclusions reached above apply here also. The number of such who cannot secure either proof or a permit is probably far less than the number alleged by the critics of the law. Yet so far as concerns the greater delay in the available supply of child workers and the trouble of getting proof for children, the burden is not to be denied.

2 and 3,—the children were positively shown to be under age. In 20 per cent more,—those with altered papers,—there was strong circumstantial evidence to that effect. In oniy 19 per cent could the above criticism be raised at all. And of these 19 per cent it is certain that only a part were cases where the child was actually of working age. How many would be a matter of conjecture. Consider also that in 1908-9 the department issued 645 special permits to cover just such cases as those, and the amount of actual hardship on such children becomes relatively unimportant. The question in any case is whether the probable number who thus suffer is sufficient to warrant giving up the age proofs of such administrative value as those which the law requires.

Much of the opposition to the law on these grounds expressed to the writer was plainly directed in fact at the policy of restriction itself, rather than at the devices of restriction. Yet there were many of the critics who accepted the policy and approved the present age limit, but still thought the requirements as to proof were too severe. It is difficult to see, however, how they can be any less so without making the law ineffective. The only other kind of evidence anywhere found acceptable is the school records. But this is by no means universally available. It would not serve for those children who, because of a lax enforcement of the compulsory attendance law in their locality, have no adequate school record, if any at all. In such cases nothing but a resort to some evidence of the date of birth is possible. The present requirements could not, therefore, be dispensed with. The only concession admissible, in the light of experience everywhere, with a really effective law would be to recognize the school record in addition to the present acceptable evidence. But that would not change the situation in fact, for in those cases where the prescribed evidence cannot be furnished, the present law fully permits the commissioner of labor to recognize a suitable school record as sufficient warrant for issuing a permit.

The impression has been repeatedly made upon the writer by critics of the law that what was wanted was to escape altogether all annoyance and trouble from the administration of the laws. But that is impossible. If the policy of preventing the employment of children under any specified age be accepted, which most of these critics openly profess to do, then there must also be accepted whatever is necessary to make the policy effective. Experience has shown that no reliance can be placed upon the deterrent influence of penalties alone; but that some

administrative device is necessary to sift out children under the age limit. Such arrangements for sifting must bear most directly and heavily upon those who have motives to disobey the law. These are the parents and their children and the employers. If evidences of birth and, to complete the list, school records are the only instruments which experience has yet devised to do the sifting effectively, then whatever annoyance the use of these may occasion to parents and employers is inevitable. The only alternative is to abandon the policy, or to say that it will be compulsory in fact only on those who wish to observe it or are too honest to evade it.[7]

The parents and employers could be relieved of the annoyance in the use of these instruments by changing the burden of proof from them to the enforcing officers. But this, also, experience has shown to be fatal to an effective policy. It is far less possible to prevent the employment of children under the prescribed age by discharging those shown to be too young than by admitting only those shown to be old enough. The only justification for changing the burden of proof would be that too many children actually fourteen are shut out from employment because they cannot prove their age. The number of these appears, as shown above[8], to be very small, in spite of the claims to the contrary. As between sacrificing the interest of these or sacrificing the many who would otherwise slip into employment under age, the balance of justice is with the law as at present.

[7] This is understood by employers themselves. One superintendent of a large factory employing a great many children, while remarking upon the burden of the age proofs, still welcomed them as a protection against unscrupulous competitors who would take advantage of any relaxation in the strictness of the requirements.

[8] Page 110, note 5

Another burden upon parents is the fees for the necessary papers. A certificate of birth from the public registry of the state board of health costs one dollar. The notary's fee is usually fifty cents. Baptismal certificates are sometimes issued without charge out of consideration for the applicant, though sometimes a charge is made.[9] This burden is unnecessarily heavy and unequal. Parents who live within accessible distance of the factory inspector can have the affidavit prepared by him free of charge, although the supplementary document may cost some fee. But not all parents have this opportunity. The state, however, cannot require notaries to accept a smaller fee. This is an additional argument, from grounds of public policy, for authorized agents to issue the affidavit. As to fees for birth certificates and baptismal certificates, the state cannot control those charged by clergymen, but it can reduce the fee for certificates from the public registry of births. It is of interest to note that the city council of Newark has provided for the issuing of birth certificates without charge to those whom the inspectors recommend as deserving such favor.

The correlation between the child labor law and the compulsory attendance law was administratively excellent until the act of 1908 changing the age for compulsory attendance. Until then, the age limit for both employment and required attendance was fourteen years. When the age is the same for both laws, the observance of each profits by the enforcement of the other. In the case of New Jersey this mutual assistance was increased by the provision requiring the commissioner of labor to

[9] An instance was related to the writer of a priest who regularly charged a dollar for such a certificate, and issued it even when the child was under age and could not profit by it. The local inspector had to request him not to issue one unless the child was of age.

report to the local school officials. Accordingly, in the few cases where the enforcement of the law has been pressed, it has produced some confusion. A child may be legally employed without molestation from the Department of Labor, and yet be taken from work by the school authorities for violating the attendance law. Indeed, the permits for employment, issued by the commissioner of labor to children apparently fourteen years old but unable to furnish the prescribed proof, would conflict directly with this law. Commissioner of Labor Bryant, under an opinion by the assistant attorney-general,[10] avoids formal conflict by adding to the permits a clause stating that the permits shall not be taken to exempt the holder from the provisions of the attendance law.

This law was passed under the pressure from its sponsor, Senator Price, without careful consideration by the legislators, many of whom have confessed that they misjudged its purport.[11] It was confidently expected by many persons that it would be amended or repealed at the next session of the legislature in 1909. An attempt by the friends of the child labor and compulsory attendance laws to sound the sentiment of that class on the law showed that there was a general feeling in favor of retaining it. The chief argument of the opponents was not that it should not be enforced, but that it could not be.[12] The law was much discussed before and during the session,[13] but no action was taken. The commissioner

[10] *Newark Star*, Oct. 22, 1908.

[11] *Trenton Times*, Oct. 27, 1908; *Newark Evening News*, Jan. 7, 1909.

[12] *Newark Evening News*, Mar. 14, 1909; *Passaic News*, Mar. 16, 1909.

[13] *E. g.*, *Trenton Times*, Oct. 7, 1908; Oct. 27, 1908; *Newark Evening News*, Jan. 7, 1909.

of labor has pointed out the present confusion and possible dangers to the whole child labor policy of the state if this law is retained and pressed.[14] This part of his report was most widely commented upon by the press notices. It is difficult to see how these two laws can remain as they are and be really effective in the case of those children for whom such legislation is passed. If it were seriously attempted to enforce it, the school officials would have to resort to such a liberal use of the power to grant exemptions to children fourteen years old that many of those whose attendance must be constrained would slip through their fingers, because the constraint is so often necessary on account of the need of employment of the children. On the other hand, if the power of exemptions is sparingly used, it would result in fatal confusion and imperil the whole policy of the state toward its children. The conflict would discredit the child labor law and destroy the prestige which it now has and which adds much to its effectiveness. And this loss would not be offset by the substitution of the attendance law, for it is beyond question that the people of the state are not yet ready to stand behind a fifteen year age limit for child employment.

The joint object of the two laws is defeated on the side of school attendance by the lax enforcement of the attendance law in many localities. This is due to the local option in the matter of providing the necessary means of enforcement. The enforcement can never be uniformly high without a centralized state administration of the law. Such an administration would encounter tremendous, if not insuperable, difficulties unless the state undertook to provide all needed facilities out of the state treasury, for the people would hardly yet submit

[14] *Rept. Dept. of Labor*, 1909, pp. 3-4.

to state interference in local affairs to the extent of state compulsion of local expenditure to meet those needs. Since that logical stage in the development of the policy embarked upon will probably not be reached in New Jersey for some time, this particular state policy will for some years have to depend for its enforcement upon the varying strength of local sentiment.

Pertaining to Physical Fitness.—The section of the law giving the commissioner and inspectors power to demand a physician's certificate of physical fitness for any child under sixteen in any occupation for which the child appears unfitted, is of doubtful efficacy. It is more specific than the earlier law. But it is fundamentally weak because it leaves the standard of physical attainment entirely undefined. That is left to each physician who may be called upon to give judgment in the case of any child. Indefiniteness in such a standard is in a large measure inevitable. Physical condition is not a thing that can be yet measured in terms of exact units. The various points to be considered are each so largely a matter of the judgment of the one who makes the examination, that opinion on the sum total of "physical fitness" admits of wide differences. A definition of a physical standard that would mean the same thing to all physicians called upon to apply it is therefore impossible. Yet if not all elements of physical fitness can be defined in the law with precision, there are some of them that can be prescribed with sufficient exactness to admit of a definite minimum in those respects with reference to specified kinds of work. This would not constitute a complete physical minimum. But it would afford a much more definite guide for passing upon a case. It would also be more effective for the purpose of such a minimum. For, with the matter so indefinite as at pres-

ent, inspectors hesitate to make any demands and physicians are unwilling to interpret "physical fitness" so as to set any precedent that means very much. Such a specific minimum, however, is probably one of those refinements requiring dispassionate and expert judgment to which American politics is not yet equal.

Besides indefiniteness in the standard, the law is weak also in leaving to the interested persons the selection of the physician from whom the certificate may be secured. Thus is opened the door to the influence of professional preference for a patron, or other personal considerations, on the expressed judgment of the child's condition. This can be avoided only by providing for the selection of a disinterested physician or by a permanent medical adviser to the department.

Pertaining to Needy Children.—One other point of criticism of the minimum standards remains to be noted. The law permits no exceptions from the requirements of the minimum standards established by it. There is a widespread sentiment, among all classes of persons, that exception should be made for children under the minimum in the case of orphans and widows and even all poor families. When the law was drawn, Mr. Swayze was inclined to make provision for at least some of these cases. But the friends of the measure, fearful that such a section would prove a loophole for wholesale evasions, opposed that. The matter was dropped on the expectation of the charitable agencies that all cases of need would be cared for by local means.[15]

There can be no question but that any scheme for exempting children in cases of hardship would be a serious menace to the effectiveness of the whole policy. It is questionable, also, whether the desired end is best at-

[15] Mr. Swayze, in an interview with the writer.

tained by exempting such children even if done with perfect precaution against abuse. But if the matter be settled, as it is in the present law, by allowing no exemptions, there remains the problem of providing for needy cases. This problem is especially interesting here for its bearing on the administration of the policy. If the state, for the sake of the future of the children, undertakes to shut them out of employment until they have reached a certain age, there must be some means for "keeping their stomachs full" in the meantime, or else the state will find itself thwarted in the execution of its policy by an opposition somewhat in the nature of a struggle for existence. Against the urgent needs of the present, a law for securing a future benefit will not long stand. This is entirely independent of the question whether the urgent present needs in particular cases are the result of misfortune or misconduct. If opportunity is afforded to meet those needs by putting children to work, a desperate effort will be made to do so in spite of the law.

The expectation that local agencies would supply this need has not been met. Only the large towns and cities have any organized charities at all. And few of those which do have made suitable provision for this demand. Besides, the use of charities for this need is open to objections and, in any case, does not reach many whose commendable self respect of one sort leads them to seek to outwit the law rather than to obey it by asking aid of charity. There has been no attempt, moreover, to develop any form of the scholarship schemes employed in some cities or any other device to meet this situation. So it is that, regardless of questions of responsibility and culpability, the fact stands that the people of the state have, neither through local initiative nor by state action, provided any substitute for child employ-

ment, as a means of contributing to the support of the child, that is available with certainty to those whose economic condition impels them to put their children to work.

The administrative importance of this is seen in the number of people, including many in full sympathy with the main policy, who condone violations of the law in cases of hardship. This sentiment is an atmosphere extremely favorable to violation of the law. It has a more direct significance also, for it bears on notaries and even clergymen with a pressure tending to produce falsified documents, or to conceal falsification, under which children actually under age secure employment.[16] Some inspectors, too, are influenced by it. One inspector, in particular, committed himself to the writer as being indifferent to two or three months under age in specially needy cases. If this sentiment were organized, it would threaten the otherwise administrative excellency of the law at the first opportunity, unless the opponents of exemptions have an alternative proposal that meets the case.[17]

Pertaining to Hours for Children.—The law on hours for children is well enough drawn to meet the conditions encountered in enforcing it in factories. Ten hours has become almost universal in industries where children un-

[16] Charges of this are in the air, though are doubtless much exaggerated. The most direct testimony on the matter was the statement of a leader among the Italians in a manufacturing section. He said, in an interview with the writer, that Italian parents often come to him asking him to influence the priest to give a false copy of the baptismal record. In a few needy cases he had done so. The total number of such cases, however, is probably not large. A more serious leak is by way of the notaries who disregard alterations in documents of birth.

[17] This matter has received bare recognition in a sentence in the report of the Department of Labor for 1909, p. 4.

der sixteen are employed. When a longer day is worked, as in some textile mills, the excess over ten hours is so small that children can be dismissed at the end of ten hours without important interference with the running of the plant for the remaining time. An eight hour day for children in a ten hour day for the rest of the force, would require more specific limits of the time within which the eight hours should be worked. But there is now no opportunity for evasion of the law in the manner practiced where the day for children is much shorter than that usual for the adults with whom they work. This is not so true in the application to mercantile employment. Employment of children is forbidden between seven o'clock in the evening and seven o'clock in the morning. But many smaller stores are open all of the time between the stated seven in the morning and seven in the evening, which affords a period of twelve hours, less one meal time, within which the ten hours may be required.

A restriction upon hours meets peculiar difficulties of enforcement in that more reliance must be placed upon the testimony of employees in conducting prosecutions, and yet, employees are under pressure to shield the employer out of fear for their positions.

Pertaining to Health and Safety.—The sections pertaining to the health and safety of children are not very strong. An inspector can tell whether a factory is whitewashed or clean, but it is difficult to see how any line can be kept on the employment of children at cleaning moving machinery or at work in dangerous positions with machinery. If it is done continuously, there is a risk of its coming to the attention of the inspector. But if it is intermittent, as much of it is, the inspectors may never discover it. The children, or other employees, will hard-

ly complain of it or even testify to it for fear of their positions. The law would be much more effective for its purpose if it specified certain dangerous and unhealthful occupations from which children should be excluded altogether. This has been recommended by the commissioner of labor.[18]

[18] *Message Gov. Abbett*, 1885, p. 28.

CHAPTER VII.

PROVISION FOR ENFORCEMENT

Thus far the account has been of the development of the ideals of the state concerning its child employees and of the increased precision with which the standard has been prescribed in the law. But experience has everywhere shown that special administrative officers are necessary to secure an observance of child labor laws, however well they may be drawn. It now becomes necessary to follow the growth in efficiency of the administrative department through which New Jersey has sought to give effect to her resolutions on child labor.

Growth of a Corps of Inspectors: The Act of 1883.—In New Jersey provision was first made for such officers in 1883 in connection with the child labor law of that year. That measure required the Governor to appoint, with the approval of the Senate, some person "as inspector" for a term of three years and a salary of $1200. For authority and instructions as to duty he was "empowered to visit and inspect, at all reasonable hours and as often as practicable, the factories, workshops, mines, and other establishments in the state where the manufacture or sale[1] of any goods is carried on." It was also made his duty "to enforce the provisions of this act and prosecute all violations."[2] He was limited in the expense he might incur to $500 a year.[3]

[1] This is probably a mistake. The bill originally applied to children in mercantile employments as well as manufacturing. But it was amended so as to exclude the former. The inspector then had no occasion to inspect mercantile establishments.

[2] *Pub. Laws*, 1883, pp. 59-61, sec. 5.

[3] *Ibid*, sec. 6.

The most commendable feature in this is that it recognized the need of a state officer to enforce factory laws and provided for his appointment. This is worth remarking when it is recollected how the measures vacillated, in the agitation leading up to the act of 1883, between the principle of centralized responsibility and that of local responsibility for the enforcement of such legislation, and how the legislature amended the vigor out of all thoroughgoing bills brought before it. And yet there were serious weaknesses in this initial provision for factory inspection.

Concerning form rather than efficiency, was the failure to give the inspector any official title by which he might be known. Of more weighty import was the insufficiency of the number of inspectors. According to the census of 1880 there were 7128 manufacturing establishments employing 126,038 persons, of whom 12,152 were under sixteen years of age.[4] One inspector could not possibly enforce the law over that field. The act was deficient, further, in not granting to the inspector the powers needed to secure observance of the law. He was authorized to visit and inspect factories, but he was not given any badge of that authority to secure his admission and no penalty was put upon those employers who refused to admit him.[5] Finally he had no authority to discharge a child found illegally employed. He could only bring prosecution upon the employer or the parent. And that, it was shown, was well nigh impossible to carry through successfully.

The Enlargement of the Corps.—The inspector at once

[4] Tenth Census. *Mfrs.* Vol. II, p. 151.

[5] The inspector reports that employers as a rule met him courteously and afforded him every opportunity to make his inspections, but that in some cases he was not recognized. *Rept.* 1884, p. 21.

urged the appointment of two assistants,[6] the need of whom was recognized.[7] A bill was introduced into the Senate in 1884. This gave the inspector the title of Inspector of Factories and Workshops and provided for two deputy inspectors to be appointed by him at salaries of $1000, but without any specified term.[8] Owing to the extreme partisanship of the Governor toward appointed officials, the bill as enacted, while making the inspector's appointments subject to the approval of the Governor and the Comptroller, limited the terms of the two deputies to February first of the following year.[9] The deputies were given the same powers as the inspector, but were made subject to his control and direction.[10] The terms of these two deputies expired during the legislative session of 1885. It was expected that the legislature would make provision to meet this. Governor Abbett, in his message, remarked on the need and even recommended that more than two deputies be provided.[11] But a recommendation from a Democratic governor to increase the appointive offices was ill received by the legislature, now Republican in both branches and rankling under this Governor's extreme partisanship in

[6] *Rept.* 1883, p. 8.

[7] *Newark Daily Advertiser,* Mar. 5, 1884, editorial.

[8] Senate Bill 2, 1884.

[9] The Governor had followed, according to announcement, an extremely partisan program with reference to the civil service. He deliberately displaced office holders that he might make room for men of his own party. This fact caused to hesitate even those who recognized the need of more inspectors. See *Newark Daily Advertiser,* Jan. 21, 1884, on the recommendation of the factory inspector. The Governor did not have a united legislature behind him in 1884. The House was Democratic, as he was, but the Senate was Republican and stood in the way of creating any more offices for the Governor to fill.

[10] *Pub. Laws,* 1884, p. 200.

[11] *Message Gov. Abbett,* 1885, p. 28.

the disposal of the patronage. However, two bills were introduced. One in the House, fathered by the leaders of that body, gave the control of the appointments to the legislature.[12] The other in the Senate, put forward by the Federation of Trades and Labor Unions, was like the temporary measure of 1884, except that it provided for three deputies for terms of three years each.[13] The Federation got its measure through the Senate and the leaders of the House passed their measure through that branch. But neither bill could pass both houses.[14] So the session closed with nothing done.

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[12] House Bill 273, 1885.

[13] Senate Bill 62, 1885.

[14] The committee of the House having the bills under consideration thought the labor leaders were trying to have offices created for themselves. Besides, they argued that three inspectors, as proposed in the Senate bill, were not enough to meet the needs. The committee took occasion to explain its position in a reply to a resolution of the legislative committee of the Federation of Trades and Labor Unions calling for the rejection of the House bill and the passage of the Senate bill. *Min. House of Assem.*, pp. 810-11.

The bill in the House was a product of the political contest for the patronage between the Democratic Governor and the Republican legislature. A number of bills transferring the appointments from the Governor to the joint session of the legislature, were passed that year, though always over the Governor's veto. This bill grouped the work of inspection, the work of the Bureau of Statistics, and the making of investigations in the field of charities and corrections under a "State Council of Labor, Charities, and Corrections," to be composed of certain officials *ex officio* and "four discreet persons" elected by the legislature. The work of inspection was placed in the hands of an inspector to be elected by the legislature and as many assistants as the council of labor and so forth thought best to provide. The Federation of Trades and Labor Unions, however, would have none of this "lunatic labor bill", but introduced their own measure into the Senate. This empowered the inspector to appoint, with the approval of the Governor and Comptroller, three deputies, one to be from the southern part of the state, and not more than two to be from

In his next report[15] the inspector complained of the impossibility of performing the duties alone, especially since the legislature had added to the work by passing the first general factory law, which was given to the inspector for enforcement. This time the legislature met his appeal. Again each house had its bill.[16] but the one originating in the Senate was the one to pass. It empowered the inspector to appoint, with the approval of the Governor and Comptroller, three deputy inspectors for terms of one year[17] at salaries of $1000. They were given the same powers as the chief, but were to be under his control and direction.[18] After one year's experience, a still larger force was asked for, and received the recommendation of Governor Abbett in his last message.[19] A bill to that purpose was introduced into the Senate by Senator Griggs, later governor and United States attorney-general.[20] But the bill was all cut away by amendments until there remained only section 2, raising to $2000 the limit on the expenses of inspectors which, by the act of 1884, had been raised to $1000. This was

the same party. Their terms were to be for three years and their salaries $1000. The Secretary of State was required to give the inspector and deputies certificates of their authority. It was made illegal to impersonate an inspector, to forge his certificates, or to hinder him at his work or conceal any child from examination by him. And these were to be enforced with suitable penalties.

[15] *Rept.* 1885, pp. 9, 20.

[16] House Bill 399; Senate Bill 38.

[17] In the original bill, three years. The change was for the political reasons already named. Governor Abbett's term would expire in a year.

[18] *Pub. Laws,* 1886, pp. 106-7.

[19] *Message Gov. Abbett,* 1887, p. 30.

[20] Senate Bill 63, 1887. This provided five inspectors for terms of two years each, one deputy to be a sanitary inspector appointed by the state board of health. Other details were designed to improve the quality of the work of the department.

passed.[21] In the following year the same bill was again introduced minus the provision for a sanitary inspector.[22] But it failed to make headway.

In 1889, the legislature was Democratic in both branches, and the Governor was of the same party. The political jealousies of the opposite party thus had no foothold to oppose the creation of new offices. In this situation a new inspection bill had a clear field and became the law of 1889.[23] By this act the Governor alone was authorized to appoint six deputy inspectors for terms of three years at salaries of $1000. These were to have the same powers as the chief inspector, but were to be at all times governed by and subject to the control of him. At the same time the term of the chief inspector was lengthened to five years and his salary increased to $2500. This force, which at the time appeared to the inspector to be sufficient,[24] was continued until 1904.

When the agitation over child labor, which led up to the act of 1904, brought its renovation of the inspection department, it was seen that the number of inspectors was inadequate for the work which had been given them to do. The act of 1904 accordingly provided for eleven deputy inspectors besides the commissioner of labor and the assistant commissioner.[25] It was also provided that, when necessary for the work, the commissioner might employ additional inspectors for such time and such compensation as he may deem fit. A further extension of the jurisdiction of the department raised the question of a still larger force.[26] This was provided in 1908 by the

[21] *Pub. Laws*, 1887, p. 144.
[22] House Bill 92, 1888.
[23] *Pub. Laws*, 1889, pp. 157-8.
[24] *Rept.* 1889, p. 5.
[25] Sec. 45.
[26] *Message Gov. Stokes*, 1907, p. 11; *N. J. Rev. Char. and Cor.*, VII, 16, Jan. 1908.

addition of two deputy inspectors,[27] which raised the number specifically authorized to thirteen. Under the provision for extra assistance the commissioner of labor has appointed an additional inspector for special work in the Newark district.

Appointment and Removal.—In all but one of these measures, proposed or enacted, for enlarging the force of inspectors, the appointment of the chief inspector rested with the Governor and the Senate.[28] The absence of any power to discharge a chief inspector except by impeachment, and the passage of the act in 1902 giving the Governor that power, have been noted already. But the act of 1904 omitted any such authority to the Governor and left the matter where it was before the act of 1902. The present Governor, Mr. Fort, has sought to have the power of removal of several state officers conferred upon the chief executive, but the legislature has thus far refused it.

In the case of the deputies, the bill of 1884 placed the appointing power with the inspector alone, but the act as passed required his appointments to be approved by the Governor and Comptroller. This lodgment of the appointing power was retained in every bill and act, except one in 1885, down to 1889. This tended to a concentration upon the chief of the responsibility for the work of the department, for he had the initiative in selecting the assistants he had to use. The act of 1889,

[27] *Pub. Laws,* 1908, pp. 573-4.

[28] It was proposed in 1894 that the appointment of both chief and deputies be taken from the Governor and vested in the legislature in joint meeting. (House Bill 480, 1894.) This probably had its origin in the deadlock between the Democratic Governor and the Republican legislature over the appointment of a chief inspector for the new term beginning that year. (See below, page 142.) This bill, however, did not pass.

however, denied him even an advisory influence in the choosing of his assistants. This, probably in the interest of party control, tended toward the dissipation of responsibility. When it is noted also that the deputies were given from the first the same powers as the chief,—that is, they could make discharges and issue orders on their own initiative,—it is clear that all the elements were then present for disorganization and resulting ineffectiveness in the work of enforcing the law. The act of 1889 also gave the inspector power to discharge a deputy for cause, but only with the consent of the Governor. This limitation practically took away altogether the use of that power as against any political influence that might be injuring the organization of his force, unless the Governor happened to be a man unusually willing and unusually free to disregard political influences. Of course the chief inspector himself might be too considerate of such influences. But what is here in question is the possibility, under the law, of holding him alone responsible for the work of his force. When the quality of the work of inspection is examined, the effect of this feature in the law is noticeable. This provision is continued in the act of 1904 which vests the appointment of deputies in the Governor alone. The present commissioner of labor has, in fact, an influence with the Governor in the selection of deputies, but this must always be at the discretion of the Governor and "subject to political necessities."

Salaries.—The matter of salaries for inspectors was early recognized as important for the character of the work that would be done, through its bearing on the quality of men available for the positions. The salary of the chief inspector was originally $1200. In 1886 it was raised to $1800 and in 1889 to $2500, where it

was left by the act of 1904.[28a] The salary of deputies had been $1000 annually from the beginning. In 1890 it was proposed to raise this to $1200.[29] But popular interest in efficient service was not so great but that fear of disapproval of apparent extravagance checked this effort. The salary of deputies remained the same for the nearly doubled force provided in the act of 1904. In 1907 the situation was changed. In that year the salaries were raised to $1500. That of the commissioner of labor, which had been placed at $2500 in the act of 1904, was raised to $3500 and that of the assistant commissioner from $1500 to $2000.[30]

Provision for Women Inspectors.—It was early believed that much of the work of inspectors could be better done by women than by men. Accordingly women have been attached to the inspection departments sooner or later everywhere. In New Jersey the Federation of Trades and Labor Unions began the agitation for women inspectors in 1898. That year the Federation introduced a bill increasing the number of inspectors to eight and requiring that two of them be women.[31] This was in effect to add two women to the force. The bill passed the House[32] but not the Senate. The opposition was based on the additional expenditure of $2000 a year for salaries. Acting-Governor Voorhees opposed it for the same reason and for fear of criticism for making

[28a] The delegation mentioned above, pp. 75; 82, note 53, asked the Governor that the salary be put at $5000, saying that manufacturers of the state did not want to be put at the mercy of a cheap official.

[29] House Bill 436, 1890.

[30] *Pub. Laws*, 1907, pp. 649-52. The original bill increased the salaries only for the deputies and the assistant commissioner, the former to $1500 and the latter to $1800.

[31] House Bill 87, 1898.

[32] *Min. House of Assem.*, 1898, p. 168.

more offices.[33] It may be suspected that the political impotence of women appointees was also a consideration. Every year thereafter the same bill, and sometimes others, was sent in.[34] In 1899 many petitions were laid before the Senate in behalf of the measure.[35] The New Jersey Consumers' League, organized in 1900, circulated petitions to now Governor Voohees praying that, when he made the appointments of deputy inspectors in 1901, he appoint one woman.[36] There was nothing in the law to forbid that. But all this availed not. In 1902 the proposal came before the legislature again; this time with success. But the bill which was introduced and passed simply amended the act of 1889 so as to provide for seven deputies, instead of six, and so as to refer to the deputies as "he or she" and "him or her."[37] This did not require that the additional appointee be a woman, but it permitted that; and it was generally understood that the intention of the bill was to provide for a woman inspec-

[33] *N. J. Fed. Trades and Lab. Unions*, 1898, pp. 33-35.

[34] House Bills 119, 1899; 119, and 319, 1900; Senate Bill 135, 1900; House Bills 9 and 45, 1901; 33, 1902.

[35] *Senate Journal*, 1899, p. 215.

[36] "This petition was sent to the women's clubs, to the W. C. T. U. organizations, to ministers, and to individuals of influence and prominence, who secured signatures of persons in their own localities. It was circulated widely throughout the state." (Mrs. G. W. B. Cushing, president of the League.)

[37] *Pub. Laws*, 1902, pp. 799-800.

It was reported that when the bill was taken to Trenton, it specifically provided that the new deputy should be a woman, but that Governor Murphy let it be known to his friends among the lawmakers that he would under no circumstances approve such a bill, and that the bill was therefore changed so as to make the appointment permissive instead of mandatory. *Newark Evening News*, Aug. 28, 1902, Editorial.

According to reports, it would appear that the Governor hesitated at first to sign even this bill. *Newark Evening News*, Aug. 23, 1902.

tor.[38] But even this sort of side door entrance did not open. The Consumers' League presented a candidate for the position and the labor organizations presented a candidate. Others also were in the field. The Governor was beset with the exhortations of the friends of these candidates. Finally, he said, by his secretary, Mr. Swayze, in reply to one such letter, that he did not then intend to appoint an inspector, because he did not feel that the necessity for another was yet clear enough to justify the expense.[39] This greatly disappointed the supporters of the bill of 1902, but met the approval of some.[40] In the course of the investigation of child labor conducted by Mr. Swayze, in the fall and winter of 1903-1904, there was revealed the peculiar need of a woman to do some of the work of the department. Governor Murphy, therefore, appointed the first woman inspector, who assumed her duties February 1, 1904. For similar reasons, Mr. Swayze, when preparing the bill of 1904, included the requirement that two of the eleven inspectors should be women.

There was soon expressed a feeling that there was need of a third woman on the staff.[41] This desire profited by the growing need of more inspectors. In 1908 the Consumers' League was the originator of the bill

[38] *N. J. Rev. of Char. and Cor.*, I, p. 81, May, 1902, editorially; H. J. Gottlob, chairman of legislative committee of the N. J. Fed. of Trades and Lab. Unions, in same issue, p. 74; *Newark Evening News*, Aug. 28, 1902, editorially; and testimony to the writer by persons who were interested in the bill.

[39] Letter to Mr. J. P. McDonnell by Mr. Swayze. See the *Daily State Gazette*, Aug. 27, 1902.

[40] *Newark Evening News*, Aug. 28, 1902; *Trenton True American*, Aug. 28, 1902; *Daily State Gazette*, Aug. 28, 1902.

[41] The Essex Trades Council urged an additional woman for Essex County alone, which contains the densely manufacturing center of Newark and its environs. *Newark Advertiser*, Feb. 3, 1906.

adding two inspectors to the force and including the provision that one of the new appointees should be a woman. This was passed, thus increasing the number of women inspectors to three.[42]

Jurisdiction of the Inspectors.—Any judgment of the sufficiency of the number of inspectors must consider the amount of the work of the inspectors. That leads to the subject of the jurisdiction of the department of inspection. The act of 1883 first establishing the department required of the inspector to "visit and inspect" factories and "to enforce the provision of this act." As that applied only to child labor, the duties of the inspector were not varied, although they were more than ample for one man. The act of 1884, providing for two deputy inspectors, made it the duty of the department to enforce all laws relating to the "sanitary condition of factories and workshops, and to the employment, safety, protection, and compulsory attendance at school of minors; and to institute all suits or actions in the name of the inspector."[44] Under this direction, the inspector found nine different laws which he considered to fall within his jurisdiction and to which he called the attention of those to whom he sent his notices.[45] But some of these were included only by stretching the terms of the law's instructions to inspectors.[46]

[42] *Pub. Laws*, 1908, p. 573-4.

[44] Sec. 1.

[45] *Rept. Insp. Fact.*, 1884, p. 9.

[46] The inspector's list included an act to protect children from neglect, an act forbidding the employment of children in mendicant and exhibition activities, an act to punish cruelty to children, and an act forbidding the sale of cigarettes or tobacco to minors. One of the laws properly coming under the terms of the instructions was the compulsory attendance act of 1874, but it may be questioned whether the intention was not to apply merely to the attendance required of working children under fifteen years old.

The factory acts of 1885 and 1887 added to the jurisdiction of the inspectors the enforcement of all the provisions for protecting the health, safety, and comfort of factory employees, male and female. The jurisdiction over fire escapes was disputed. The child labor law of 1883 applied to mining, hence the inspector was required to inspect mines with reference to child workers, but he was not given jurisdiction over other features of mining operations. In 1892 a commissioner of mines was provided for, after some intermittent agitation to that end.[47] But this law was repealed in 1894 and the duties placed upon the factory inspector.[48] Thus it remained until 1904, when the duties were omitted from those given to the new Department of Labor.[49]

In 1899 was passed an act requiring wages to be paid in money every two weeks. The enforcement of this law was put upon the factory inspectors.[50] By an amendment of 1904, the new Department of Labor created that year was charged with the enforcement thereafter.

In 1896 a bakeshop law was passed for the sanitary regulation of bakeries.[51] The enforcement of this law

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At any rate, the enactment of a compulsory attendance law in 1885, placed the enforcement of that act with local truant officers and thereby removed it from the inspectors.

[47] *Pub. Laws,* 1892, pp. 37-9. A bill had been proposed as early as 1886, House Bill 186.

[48] *Pub. Laws,* 1894, pp. 64-7.

[49] Mr. Swayze opposed the inclusion of this function in the new law because the work of mine inspection required an expert in mining, which no inspector on a salary of $1000 was likely to be. He thought a separate law could better make that provision. The labor leaders, for their part, were satisfied because mining is not important in New Jersey. (*Hoboken Observer,* Feb. 9, 1904.) No law has since been passed and appears not to have been demanded.

[50] *Pub. Laws,* 1899, p. 69.

[51] *Ibid.,* 1896, p. 266.

was placed upon the factory inspectors. When the act of 1904 was prepared, the bakeshops were omitted from the jurisdiction of the Department of Labor both because of a doubt of the constitutionality of placing such a provision in a factory law, and because of the want of any direct relation between factory inspection and the public health as affected by the preparation of food. But in 1905, a revision of the bakeshop law placed this duty again upon the inspectors.[52] This anomalous arrangement is due probably to the urgent desire of the bakery workers who feared the law would not be enforced otherwise. Yet the commissioner of labor urged the proposal himself.[53]

Powers of Inspectors: Power to Enter Factories.— The inspectors have not always enjoyed sufficient powers to enable them to compel an observance of the law they have been supposed to enforce. This question of power is complicated by that of proper safeguards upon the abuse of the power. It has been fear of this abuse, as much as opposition to the policy involved, that has retarded the development of ample powers for the inspectors. Even yet the problem of administrative arrangements that will make the inspectors real enforcers of the law without resulting in unreasonable arbitrariness is not satisfactorily solved.

The original act providing for an inspector, the child labor law of 1883, was remiss in the important matter

[52] *Pub. Laws*, 1905, pp. 203-6.

[53] *Rept. Dept. of Labor*, 1904, p. 9.

This arrangement has been criticised as disturbing to the work of factory inspection because of its distracting demands upon the inspectors. But motives of economy will probably continue it for some time. The only other available disposal is to give the enforcement of the law to local boards of health. But that would create as uneven an observance of the law as is now had by the compulsory attendance law.

of legal authority to enter factories for inspection. The inspector was required to make inspections, but was not specifically authorized to enter factories. Nor was he provided with any badge or certificate of his office. The need was met in 1886 by the act which added three deputy inspectors.[54] This law provided for a certificate of authority from the Secretary of State. It also made it illegal to impersonate an inspector or to hinder him in the discharge of his duties or to conceal any children from his examination. And penalties were provided to give these directions effect. These powers were retained in the act of 1904, which also specifically conferred upon the inspectors the right to enter and inspect establishments at all reasonable hours.[55] This power has been finally passed upon by the courts.[56]

As affecting the inspectors' opportunity to inspect factories, although not pertaining to their powers, is the requirement that manufacturers report to the inspector the location of their establishments when they occupy them. A provision to that end was included in the factory bill of 1885,[57] but it was stricken out before passage. The same provision was before the legislature in 1886,[58] but was again rejected. In 1887 it was included and retained in the factory bill passed that year. This required every person, within one month after occupancy, to notify one of the factory inspectors of his occupancy.[59] The act of 1904 requires the same notice to be sent to the department at Trenton.[60]

[54] *Pub. Laws*, 1886, pp. 106-7, secs. 2-5. One of the bills which failed to pass in the legislature of 1885 had provisions to remedy this. Senate Bill 62, 1885.

[55] Sec. 45. [56] See above, page 93.

[57] House Bill 154, sec. 3.

[58] House Bill 218, sec. 2.

[59] *Pub. Laws*, 1887, p. 243, sec. 1.

[60] Sec. 29.

Power to Discharge Children.—The act of 1883 applied only to child employment. But, besides the lack of authority to enter factories, the inspector was not given power to exercise his authority in that limited field. He was authorized only to prosecute offending employers or parents, but not to discharge a child found employed under age. An attempt was made to correct that in the act of 1884. That measure gave the inspector authority to discharge forthwith any child found employed under a false affidavit.[61] It would have been ample but for the insufficient requirement of the law as to the evidence of a child's age. The burden of proof was on the inspector. And proof was in many cases so difficult that his power to discharge could not be brought to bear upon many children whose employment he was morally certain was illegal. These provisions of the law, however, remained unchanged until the enactment of 1904. In that year, the burden of proving a child's age being shifted to the parent, the commissioner was empowered to discharge any child who can not prove himself to be of legal age within five days, as well as any who may be shown to be under age.[62] This authority has proved adequate. But it should be noted that the authority to discharge a child or issue any other order, except one to furnish proof of age or a certificate of physical fitness, is expressly conferred upon the commissioner alone. The inspectors merely report the facts as they find them and make recommendations. This is an important improvement over the old law.

Required Attention to Duty.—Much demoralization has been caused to the work of the department of inspection by the demands upon the inspectors of other business

[61] Sec. 5.

[62] See above, pp. 81-2.

interests. This and other influences caused them to give only part of their time to their duties. Such looseness in the inspection department did not pass without a protest, though the most urgent protestants, until the very end of the period, were the labor organizations. The unsuccessful measure before the legislature in 1887, for enlarging the force of inspectors, contained a section requiring each inspector to give at least eight hours a day to his work.[63]

After repeated efforts to get such a provision through the legislature,[64] it was incorporated in the act of 1902 which made way indirectly for a woman inspector. By this the deputies were required to give to their work eight hours a day, but only four on Saturdays. They were forbidden to engage in any business or employment that would prevent the full and faithful performance of their duties. Violation of this was to incur immediate suspension and loss of pay for such a period as the chief might deem proper, and even discharge with the consent of the Governor.[65] The act of 1904 incorporated the same reqnirement as to hours of service and as to non-participation in other distracting business.[66] The deputies at present appear to be held to this very generally. Only one clear instance came to the attention of the writer where the deputy, from his own account of his work, may be suspected of neglecting his duties on account of other business.

There is, however, plenty of political activity in some cases, although none of the deputies with whom the writer came in contact appeared to be letting his work

[63] Senate Bill 63, 1887, sec. 4.

[64] House Bill 92, 1888; House Bill 119, 1899; House Bill 119, 1900; House Bill 9, 1901.

[65] *Pub Laws*, 1902, pp. 799-800, sec. 2.

[66] Sec. 45.

suffer conspicuously on that account; and the one apparently most active in local politics has a very excellent record as an inspector.

This matter is difficult to control, in view of the conditions affecting the appointment and tenure of the inspectors. The one conspicuous delinquent noted by the writer justified himself on the plea that his position was a political one and very uncertain as to its renewal, so that he felt compelled to "put an anchor out to windward." While this does not justify a man's acceptance of $1500 a year without due return of service, the argument has as a matter of fact much practical importance. Until appointment can be conditioned solely on qualifications and tenure on efficiency of record, the deputies will be bound by human nature to spend some of their time in providing insurance against the evil day. Nothing but the intense and sensitive interest of the people of the state in the subject of child labor could have enabled the present régime to free itself as much as it has of the demoralizing influence from this source.

Poltics and Personnel: The Chief Inspector.—Governor Ludlow in 1883 first nominated to the new office of inspector of factories Mr. Richard Dowdell of Essex County. The nominee was an active leader in the labor unions of the day. The Senate, however, rejected the nomination on the ground that it was unfair to the manufacturers to put into such an office a man who represented the extreme labor union element.[67] The Governor then selected Mr. Lawrence T. Fell, a hat manufacturer and real estate dealer of Essex County. This nomination was approved by the Senate. Although a manufacturer, the inspector showed himself to be much in sympathy with

[67] *Newark Daily Journal*, Mar. 22, 1883, Editorial; *Newark Daily Advertiser*, Mar. 23, 1883.

the labor unions, to whom he gave much credit for the law and for assistance to him in enforcing it.[68] He also chose his first deputies from trade unionists. Yet he does not appear to have carried his sympathies to the extent of giving offense to manufacturers on that account. He was something of a politician, also, without any doubt.[69] Probably his selection for the office was influenced by that fact. Yet he denied that he made application for the office or in any way sought the appointment. However that may be, he showed a great deal of sympathy and enthusiasm for the object of the laws under his jurisdiction and appears to have made an earnest endeavor to enforce them throughout his official career.[70] He has left a record which appears to be a good one. According to testimony given the writer by two inspectors who served under him, he followed up the work of each deputy with critical scrutiny and exacted faithful performance of duty from them, so far as he had power to do so. Yet he did not escape criticism. His renomination in 1886 was adversely reported by the senate committee and was confirmed only after some delay by a small majority.[71] But that was doubtless due to the fact that the Senate was Republican while he and the governor who renominated him were Democrats. In 1889 his renomination was

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[68] See. *Repts. Insp. Fact., passim.*

[69] He was at one time, during his inspectorship, Mayor of Orange. After his appointment he was charged with earlier political dealing and with having sought to influence legislation affecting his office. All of this he denied. Letter by "Rex Hatter," dated Mar. 1, 1884, in *Newark Daily Advertiser*, Mar. 3, 1884. Reply by Inspector Fell, dated Mar. 4, 1884, in *Newark Daily Advertiser*, Mar. 5, 1884.

[70] This has appeared in the accounts of the enactment of the various laws during the early years of his official career.

[71] *Senate Journal*, p. 897.

confirmed unanimously by a Senate with a Democratic majority of only one.[72]

At the expiration of the first five-year term in 1894, his renomination was stoutly opposed. Whether this was due in any part to his attempt to give the fifty-five hour law of 1892 the vigor of judicial approval and then enforce it, the writer has not discovered. But probably politics had a large part in it. Inspector Fell had held office for eleven years. It was time to "give some one else a chance." The Senate was now Republican by a majority of one, so could defeat the renomination by the Democratic Governor Werts. The nomination was referred to committee,[73] but no report was made or other action taken. In 1895, Governor Werts renewed his nomination of Mr. Fell. This year the Senate was Republican by sixteen to five. The term of Governor Werts would expire in a year. The trend of political sentiment was toward the Republican party, so a further delay of a year might find a Republican governor in office. The nomination was accordingly rejected by a party vote.[74] Governor Werts did not nominate anyone else. Meanwhile Mr. Fell held over, but, of course, was not as aggressive on such an uncertain tenure. When the legislature met in 1896, the Republican Governor Griggs had been elected and the Senate was Republican by eighteen to three. This was the first Republican governor since the inspectorship was established. The event was, therefore, a signal for a redistribution of patronage. Senator John C. Ward, a farmer of Salem County, whose senatorial term was about to expire, was nominated by Governor Griggs and promptly approved by the Senate.[75] Inspec-

[72] *Senate Journal*, p. 887.
[73] *Ibid.*, 1894, p. 905.
[74] *Ibid.*, 1895, p. 947. The vote was 15 to 5.
[75] *Ibid.*, 1896, p. 893.

tor Ward held the office until the revulsion of sentiment forced him out in 1904 and reorganized the department under a new law.

Inspector Ward was the opposite in many respects of Mr. Fell. He was an easy-going official, without any aggressiveness. He had none of the enthusiasm for the factory laws displayed by Mr. Fell. He had no intimate knowledge of factory life or factory conditions, having come from a farming county, in the south of the state, where the only manufacture of importance was the glass industry. His selection was made almost entirely on grounds of political expediency. The administration of the department under him became thoroughly involved in the game of politics and showed no vigor at any time. Mr. Ward was severely criticised as purposely relaxing the enforcement of the law for the sake of employers who wished to violate it. It appears rather that he was not reactionary in his purpose, but too easily misled as to the actual observance and too solicitous about political consequences. His outgoing from office and the appointment of Mr. Bryant have been already described.[76]

The selection of Mr. Bryant appears to have been independent of political influence. He was not known to be a candidate for the place and his name had never been mentioned in connection with it. Governor Murphy is reported to have said "I have selected Colonel Bryant for this position entirely because of my personal knowledge of the man . . . . I shall give Colonel Bryant a free hand in the management of his department, especially in the selection of his subordinates, and shall only demand that the work so well begun by Mr.

[76] See above, pp. 63 *et seq.*

Swayze shall be carried to a successful completion."[77] At least one candidate of the politicians of South Jersey was passed over in this appointment.[78] This was in accord with the declaration in his annual message that "above all, the head of this important department should be in perfect sympathy with the views of the people of the state."[79]

Mr. Bryant was in the hotel business, the irrelevancy of which to the work of factory inspection was made the point of some critical humor, especially as Mr. Ward had been criticised because, never having been anything but a farmer, he could not be expected to direct the inspection of factories understandingly. But Mr. Bryant's recommendation came from another source. He had been educated in a military academy, had served in the Spanish war as captain of a company in a regiment of New Jersey volunteers, had then served as assistant inspector-general in the New Jersey National Guard, in which position he was acknowledged to have made an excellent record for efficiency, and was at the time of his appointment secretary of the New Jersey Commission to the Louisiana Purchase Exposition. Although these were political offices, he seems to have given them more than the time-service of the politician and to have shown a capacity for organization and an integrity such as were needed in the work of directing the factory inspection. At any rate, the appointment was favorably noted by the newspapers, and the work of the department under his direction has found equal favor.

The Deputy Inspectors.—The office of deputy inspec-

[77] *Newark Daily Advertiser*, Jan. 8, 1904; Also *Daily State Gazette*, Jan. 11, 1904.

[78] *Daily State Gazette*, Jan. 7, 1904.

[79] *Message*, 1904, p. 13.

tor was treated as a reward for political service. This is generally acknowledged, although in the nature of the case the exact details and reasons for changes on that account are difficult to ascertain with certainty. The following table presents a scheme of the changes of the deputies. Each space on a horizontal line represents a year. These are grouped into three-year periods corresponding to the terms of the several governors. The political faith of the governors is indicated by D for Democratic and R for Republican. The years are indicated by the last two figures of the number, beginning with 1883. The incumbency of the chief inspectors is indicated by their names placed at the beginning of their official careers. The different inspectors are indicated by different letters placed under the year of their appointment. Their terms of office respectively are indicated by the number of spaces after the letter until the next one. From 1887 to 1904, each horizontal line represents one office and the number of letters in the line the number of different inspectors who have held that appointment. In 1904 the districts were reorganized so that none of the inspectorships are identical with those preceding 1904.

TABLE V.

CHANGES OF INSPECTORS.

D	D	D	D	D	R	R	R
'83	'84-'86	'87-'89	'90-'92	'93-'95	'96-'98	'99-'01	'02-'04
FELL	D.	. . .	. . .	. . .	WARD	R. .	. . .
		C E .	. . J	. . .	. O .	. . .	. . .
	A	D . .	. . .	. . M	. P .	. . .	. . .
	B	B F .	. . .	. . .	. T .	. . V	. . .
		G	. . K	. . N	. Q .	. . .	. . .
		H	. . .	. . .	. R .	. . .	. . .
		I	. . L	. . .	. S .	. . U	. . .

By the diagram is shown that A and B were appointed in 1884 for the short term expiring February 1, 1885. Then came the period of two years when political jealousies prevented provision for any deputies. In 1887 three were provided for terms of one year each. Two of these were succeeded at the end of that term by other men. In 1889 came the new inspection law providing six deputies for terms of three years each. The three existing deputies, E, D, and F were reappointed with three new ones, G, H, and I. Three of these six were succeeded at the end of their terms by new appointees. One of the new and one of the old were succeeded at the end of the next term. Then came a change of administration with the appointment of chief inspector Ward and a clean sweep of the deputies. Only two further changes were made before the reorganization of

1904. In 1904 politics had its influence on the appointments, but did not determine them. Governor Murphy consulted the interests of local politicians. And it is evident that some of the appointees are active in local politics. But he insisted on getting competent and well-intentioned men. To each of them he sent a forceful letter giving him to understand that he would be held for his full duty.[80]

From 1887 to 1904 the average term of office for the deputy inspectors was 4.57 years. The time since 1904 has been too short to judge of the tenure of office.[80a] Thus far there has been a respect by politicians for the integrity of the force. But only one change of governors has been made affecting reappointments, and that did not involve a change of party. A third governor is now in office, but he is of the same political faith. He will not have the appointments to make until 1910.[80b] From his present record he is not likely to sacrifice them to politics. Whether, however, public sentiment is strong enough to enable the present composition of the force to withstand a change of politics in the administration is rather doubtful. There is a growing sentiment for a more permanent tenure in all state offices; and civil service laws have been agitated in recent years. But the politicians have thus far prevented very much of a check on their control of the patronage. In 1908 a civil service law was passed. But its provisions do not include

[80] *Trenton True American*, Sept. 3, 1904; *Newark Evening News*, Sept. 4, 1904.

[80a] Written early in 1909.

[80b] Written early in 1909. Since then, Governor Fort has reappointed Mr. Bryant, but only after some delay and after urgent requests to do so by various delegations and communications from the friends of the child labor law.

inspectors in the classified service.[81] So the department is still open to the raids of the politicians if ever a governor is elected who will give heed to them.

Labor organizations have taken an active interest in the work of inspectors. There is a wide feeling among wage earners generally that inspectors ought to be chosen from among wage earners on the ground that they are most familiar with the conditions which the law aims to improve and most interested in seeing the law enforced. This feeling has had some recognition, apparently, in selecting the inspectors. At least nine of the thirty-one men who have held such an office have been union men, and some others have been wage earners. Such selection has been confined, so far as the writer knows, to the northern half of the state.

The quality of inspectors appointed to the force under the conditions described has been of all grades from the worst conceivable to the best possible. Some of the deputies have shown a complete disregard for everything but the salary. One manufacturer interviewed said he had been threatened with blackmail prior to 1904. An employee for a long time in one of the industrial centers said the inspectors in his section long had had no respect from the workers, who even helped to conceal children from them and who refused to offer them any assistance. On the other hand there have been some who have left excellent reputations in their sections for honesty of purpose and diligence. Of the present inspectors, those concerning whom the writer has made inquiries enjoy in most cases good reputations. With eight of them the

[81] *Pub. Laws*, 1908, pp. 235-56. Among the numerous public officers excluded from the classified service are "all officers appointed by the Governor, with or without the approval of either or both branches of the legislature." As the inspectors are appointed by the Governor, they fall within this excluded class.

writer has been in contact sufficiently to form some opinion of them. Although he does not consider his association with them long enough or intimate enough to express a final judgment on their quality, his impressions may be added to the statement of their reputations. Taken as a whole they appear to average well above the usual political appointee. In only one case did the writer feel that the man was quite indifferent to his work. In two cases the writer would judge the men to be earnest and industrious, but somewhat easy for shrewd violators of the law to fool. This was said to be true of one of them by some in his district who were interviewed. The others appeared to have not only interest and pride in their work, but also a certain potential aggressiveness that is aroused by any attempt to hoodwink them. This has shown itself to the discomfiture of employers on several occasions. Yet it can hardly be said of more than two or three of them that they have that commanding interest in the law's observance and that missionary zeal for the results sought for that tend to an even carefulness to keep the work up at all times. Yet such strong devotion to duty is perhaps too much to expect from political appointees at present. The relative excellence of the force is more to be remarked upon than the absolute deficiencies.

Administration of the Work: Organization.—The organization of the department for inspection has gone through all stages. Until 1892 Inspector Fell had his headquarters at his place of business in Orange. After that he was established at the capitol. Since the fall of 1906, the department has maintained a branch office in Newark, which is open on certain days of the week, under the care of members of the force, for issuing the papers for working children and answering inquiries pertaining

to any part of the work of the department. This is a most valuable provision for the enforcement of the child labor law. Newark and its environs are a densely manufacturing district. The office of the department affords an opportunity for a great number of children to secure their papers under expert supervision of officials interested in having them correctly prepared. Many incorrect supplementary documents are discovered which would possibly have passed a notary unchallenged.[82] Much subsequent labor in discovering these cases is thus saved for the department. The usefulness of this office has led the department to open headquarters and office hours in other important centers of the state. By the end of 1909 offices were established in Hoboken, Paterson, Passaic, and Camden; and others were planned for Elizabeth, New Brunswick, Millville, and Bridgeton.[83]

The centralization in the chief inspector of authority over the work of the department was very limited in the early years. The several deputies had all the powers of the chief for initiating action except that no prosecution could be begun by them without the written direction of

[82] The preventive work accomplished by this office may be summarily stated in the following figures taken from the reports of the office to the commissioner of labor.

	1906-7	1907-8	1908-9
Number of affidavits, with accompanying papers, issued	2,660	2,289	2,945
Number of applicants below legal age	286	158	153
Number without birth records	398	194	228
Sent abroad for proof of age	110	121	46
Falsified papers discovered	92	37	56

In 52 cases in 1906-7, in 75 cases in 1907-8, and in 202 cases in 1908-9, affidavits were taken and held for lack of supplementary proof of age. These were filed for possible assistance in prosecuting any employer who might illegally employ any of the children.

[83] *Rep. Dept. of Labor*, 1909, p. 7.

the chief inspector.[84] This resulted in great lack of uniformity in the administration of the law, and subjected employers to the unqualified exactions of men of all sorts of judgment and integrity. Under the law of 1904, all action by the department must be taken by the commissioner of labor alone. The deputies have powers only of inspection and recommendation.

Another point pertaining to the chief's control over the department is the matter of reports by the inspectors. This does not appear to have been worked out until the present law. The deputies made annual reports of their work. But there was much looseness in the reporting during the year, both as to frequency and as to the content of the report. Attempts were made to improve this by legal enactment, but without success. Under the law of 1904, however, the deputies are required to report in writing at least once a week. They are furnished forms upon which to make this report, showing their work for each day of the week. Besides, separate forms are provided for reporting their findings in each establishment inspected. The commissioner is thus given frequent and detailed information on what the deputies are doing. Also, the necessity of making frequent and detailed reports stimulates the deputies to have something to put in them.

Another matter affecting organization is the division of the labor of the department. This concerns more than the inspection of child labor, but it may be noted here as indirectly revealing the system with which the inspection of child labor is done. Prior to the present law, there appears to have been no division of labor except by division of the state into districts. In each district, the deputy looked after as much or little of the law under his charge

[84] Act of 1884, sec. 1.

as he liked. But the whole of it was left to him. The proposal was made to provide a special sanitary inspector, but it did not receive support.[85] Since 1904 there has been a degree of specialization. The assistant commissioner has made a specialty of passing upon all reported needs for fire escapes. One of the deputies has made a special work of blowers or dust removing systems, throughout the state as well as looking after a district of his own. One of the inspectors is a plumber and is often used outside of his district to pass upon cases involving the installation of sanitary equipment when the commissioner is in need of expert advice. The women inspectors give their attention primarily to the interests of women employees and child labor, although the latter is a prime interest with all the inspectors.

The state has always been districted since the permanent provision for deputy inspectors in 1886. Since 1904 there have been nine districts. To each of these one of the original nine men inspectors was assigned. The two women were assigned to special work on child labor and the interests of women employees without regard to districts, except that one has worked in the southern part of the state and the other in the northern. The recent addition of one more man and woman has not yet caused any change in the districting of the state.

Formerly there does not appear to have been any systematic plan for following up orders issued by the inspectors. If a child was discharged for being under age, no check was provided upon his immediately securing employment elsewhere. If a certificate of school attendance was ordered, the inspector was left to return or not in order to see whether the certificate was secured. Likewise with orders for the betterment of factory condi-

[85] Senate Bills 63, 1887, and 191, 1891.

tions. Since 1904, the employment of a discharged child is checked up when the papers are sent to Trenton within the twenty-four hours after employment. If a child is ordered to be discharged, or if an order for betterments is made, a form accompanies the order upon which the employer reports when he has complied with the order. When this reply is received by the department, or when the time limit on the order has expired without such reply having been received, the local deputy is sent to ascertain whether the direction has been followed and, if so, whether in a satisfactory manner. If the matter needs further attention it is followed up.

Until the reorganization of the department under the present law, no adequate records of the work were kept at the central office. The department was crowded off in a corner of the state house without room for such files, even if there had been inclination to keep them. At the outset of the present régime, advice was sought from the experience of other states and a system of records, carefully planned to meet the needs of the administration of the law, was devised and has been kept up.

The Work of the Women Inspectors.—The work of the women inspectors greatly strengthens the department in the fields of child labor. A woman has a superior advantage in investigating doubtful cases of children. She will be better received in the home and with less suspicion, and can, therefore, discover more of the truth than the man in the same situation, especially in the case of foreigners ignorant of American ways. It was for this work that the need of women on the force was first felt and this was the work first assigned to the first woman appointed.

The women now, however, make regular inspections with chief reference to child labor and women employees.

In this work they are more criticised. They are said to be too idealistic. They want a factory kept as they would keep a parlor. They recommend orders for betterments with regard solely to the desirability of the improvement, and without regard to the cost or practicability of it to the employer concerned. They are too uncompromisingly insistent on immediate perfection. In the matter of child employment, they are swayed by sentiment and act on their woman's impulses, so as to be unjustly severe. And so forth. This doubtless has truth in it. But how far the women are judged "too much" of the character alleged and "too strict" depends on how far the critic would like to be undisturbed. It must be recorded also that most employers interviewed expressed approval of the work of the women and considered many of the results secured by them to be unattainable otherwise. On the whole the presence of the women is a good tonic to the work of the department for which their mistakes from overzealousness are not too much to pay, especially since inspectors can make no orders of their own will.

Criticism of the women comes from within the department also. They have no limit to their territory, except as the state is divided into large districts between them. They thus cut across the territory of the other inspectors. This frequently discloses a slackness by the men inspectors in keeping track of some factory or other, —a result of the women's activity not agreeable to the men. Hence some feeling by them against being "spied upon" in this manner. Yet there is a counter surveillance of the women's work by the district inspectors. This mutual checking up of work by two inspectors covering the same ground is certainly a valuable stimulus to better work by the department as a whole. The present arrange-

ment must be judged to have great administrative merit.

Policy as to Enforcement.—Inspector Fell, when he assumed his duties, was subjected to a demand, especially by workingmen, for a literal enforcement of all the labor laws at once. Instead, however, he adopted a policy of leniency for first offenses and for merely technical violations. This policy was repeatedly stated and defended by him.[86] Inspector Ward does not appear to have had any aggressiveness at all to his policy. Commissioner Bryant at first took somewhat the same view as did Inspector Fell, but with more firmness after the preliminary leniency. There had been felt so little force from the laws that to enforce the act of 1904 sharply and completely would have brought a sudden shock to the industries affected. The commissioner decided to take up one feature of the law at a time, get employers to understand that thoroughly and in the way of observing it, and then take up another. The age limit was the first of the child labor provisions to receive attention. Since then, the fifty-five hour week for children under sixteen has been taken up and pressed.

Prosecutions.—In the matter of prosecutions, Inspector Fell does not appear to have done much. His reports contain no statistics on that point, although he indicates that he did resort to prosecution.[87]. Yet this was not often. He attributes it to want of necessity because of the favor with which the law was received.[88] That is a

[86] *Repts. Insp. Fact.*, 1885, p. 7; 1886, p. 8; 1893, p. 7.

[87] *Rept. Insp. Fact.*, 1887, p. 6.

[88] *Ibid.*

[89] Thus he reports in 1886, "There have been opportunities to prosecute parents and guardians. Investigation, however, showed in almost every case that the family was extremely poor. Realizing what a hardship a fine or imprisonment would be upon their dependents, I relied upon their promise of implicit obedience in the future, and dismissed the children from the factory." (P. 8.)

doubtful explanation. It is easier to think that his policy of leniency,—being a man of easy sympathies,[89]—and the difficulties of proving a case were the cause, so far as he was involved, and that indifference of the inspectors in some districts was another cause. During Inspector Ward's régime, the reports say nothing of prosecutions until 1901, when it was reported that violations of the child labor law had necessitated some prosecutions, in two of which the department was successful.[90] In the next year, he reported three successful prosecutions in all and two others pending.[91] This was most certainly due to the rising protest against his administration. That he was formerly indifferent to violations is indicated also by the testimony of earlier inspectors, who told the writer of repeated cases reported by them to no purpose.

From the advent of Mr. Swayze, and later the present Commissioner Bryant, a change in this matter at once appears. Accounts of suits became noticeably frequent in the newspapers. Under the old law, with all the difficulties upon the department of proving a child to be under age, twenty-three suits were brought in the year from October 31, 1903, to the same date in 1904, and nineteen judgments were secured,[92] out of the twenty cases then finally settled. This is illuminating testimony to what could be done even with the old law when the head of the department was resolved upon enforcing it. During the official year 1905 and 1906, thirty-two suits were brought under the new act of 1904, in which penalties were recovered in all but one of those concluded when the report was written.[93] In 1906 and 1907 twenty-two employers were prosecuted.[94] During 1907 and 1908 five suits were

[89] *Rept. Insp. Fact.*, 1901, p. 11. [90] *Ibid.*, 1902, p. 237.
[91] *Ibid.*, 1904, p. 7.
[92] *Rept. Dept. of Labor*, 1906, p. 5.
[93] *Ibid.*, 1907, p. 4.

brought.[95] During the year 1908 and 1909 suits were instituted for the illegal employment of forty children.[96] The falling off in the number of prosecutions in the year 1907 and 1908 may appear to indicate a slump in the activity of the department. But it may well be accounted for by the depression in business, which would be expected to reduce the occasion for illegal employment of children. This inference is strengthened by the coincidence of the increase of prosecutions in 1908 and 1909 with the revival of business.

Compulsory Attendance: 1883 to 1904.—To enforce the compulsory attendance law, it was necessary to provide sufficient accommodations, an adequate force of truant or attendance officers, and, considering the character of pupils whose attendance is compelled, provision for the segregation and appropriate handling of backward and incorrigible children. The responsibility for providing these rested upon the local school authorities. Besides this, the factory inspector was given authority to assist in the police duties. His activities may first be noted briefly.

The factory inspector, led by his own interest in the matter and by the relation between the compulsory attendance and child labor laws, as well as by his authority, took steps on his own account to stimulate localities to enforce the law. In August following the enactment of the law of 1885, he sent letters to the mayors of all New Jersey cities urging them to secure an observance of the act.[97] This he appears to have repeated, in some cases anyway.[98] More than that, he went in person before the local authorities in different cities to urge

[95] *Rept. Dept. of Labor*, 1908, p. 5.
[96] *Ibid.*, 1909, p. 8.
[97] *Rept. Insp. Fact.*, 1885, p. 35.
[98] *Ibid.*, 1887, p. 10.

them to provide the needed facilities.[99] This, be it noted, was the only centralized influence exerted upon the several communities. But it was merely an influence, for his authority went no further in that direction. How little his influence effected in the present case will be noted presently.

Turning to the activity of local authorities, the question of school accommodations was the leading one. The law on the matter has been noted.[100] The interest here is in the extent to which the necessary facilities were supplied. It was a persistent complaint that the school buildings were inadequate to accommodate all the children if attendance were required. These complaints appear in the reports of the inspector of factories and, especially, in those of the superintendent of public instruction.[101] They apply to all parts of the state. The charge, moreover, was admitted and the question of accommodations was put forward as the reason for a confessed neglect of the attendance law.[102] Yet the lack of accommodations was not always and everywhere accepted as the only reason for non-enforcement. It was frequently asserted, and illustrative examples were given, that, whether the existing buildings could accommodate all children within the compulsory age group or not, they could accommodate many more of those children than the authorities in many places were hunting up.[103]

[99] *Rept. Insp. Fact.*, 1891, p. 109.

[100] *Ibid.*, 1885, p. 35.

[101] *Ibid.*, 1886, p. 16; *Rept. Supt. Pub. Instr.*, 1880, p. 33; 1887, p. 33-34; 1891, p. 14; 1896, p. 162; 1898, p. 204; 1903, p. 114.

[102] *Rept. Insp. Fact.*, 1885, p. 35; 1887, p. 10; *Rept. Supt. Pub. Instr.*, 1885, App., p. 67; 1886, App., p. 85; 1887, p. 35; 1891, App., p. 73; 1892, App., p. 111; 1893, Part I, App., p. 76; 1896, p. 182; 1899, p. 236; 1902, p. 146; 1903, pp. 102-3.

[103] *Rept. Insp. Fact.*, 1890, p. 8; *Rept. Bur. Stat.*, 1888, p. 623; *Rept. Supt. Pub. Instr.*, 1892, p. 45; 1894, App., p. 96.

There was enough elasticity to the existing accommodations to permit a much greater observance of the law than was being secured. No inclination, moreover, has been discovered to take advantage of the law of 1899 making it possible to borrow from the state school fund for the purpose of providing accommodations.

Of the other requisites for an effective enforcement, the appointment of truancy officers proceeded very slowly. A year after the factory inspector sent out his letters to the mayors of cities, he knew of only one such officer having been appointed.[104] By 1890, he knew of only two additional cities having made the provision.[105] The following year he records a "number of additional truant officers" and "more attention" to the law.[106] From this time on more cities appointed officers to enforce the law. But it appears that these advances were only half way. The efforts of the officers were restricted in most cases to securing regular attendance by those already enrolled. In few cities was it attempted to get into school those not enrolled at all. Where this was undertaken, the number of officers was still inadequate for the purpose.[107]

The lack of attendance officers and the inadequacy of their service was chargeable in part to the grudging cooperation of the police, from whom the officers were to be drawn, as well as to the fault of school authorities. From the very first it was pleaded that the police force could not spare the men.[108] There was another bone of contention in the question as to whether the school

[104] *Rept. Insp. Fact.*, 1886, p. 14.
[105] *Ibid.*, 1890, p. 7.
[106] *Ibid.*, 1891, p. 8.
[107] *Rept. Supt. Pub. Instr.*, 1893, Pt., I, App. p. 63; 1897, p. 238; 1892, App., p. 111.
[108] *Rept. Insp. Fact.* 1885, p. 35.

officials or the police authorities should control the truant officer.[109] Finally, because of this double authority over the officer, the police department frequently did not feel responsibility for the work, which thereby came to be performed perfunctorily.[110] Thus the coöperation of the police was so far withheld as to diminish the effectiveness of the provision by the school boards, a provision usually too inadequate at best. It is not to be concluded, however, that the police were always indifferent. Cases are recorded of sympathetic and faithful coöperation with the school authorities.[111]

The provision of ungraded or truant or parental schools was almost totally neglected. Proposals to that end appear to have been considered;[112] and Newark had long had a city home for incorrigible children which was used for that purpose.[113] But otherwise the interest in the matter never could surmount the obstacle of the expense of providing space or buildings and the special teachers required. It was said at the end of the period by a leader in the charitable and philanthropic activities of the day that "there are no parental schools in New Jersey, the only persistent effort which has been made in this direction is in the city of Newark, and even in Newark very little is at present being done."[114]

Turning from the provision of the means of enforcement to their use, such provision as was made seems not to have been employed with earnestness. This will be shown in the evidence of a lax observance to be examined

[109] *Rept. Insp. Fact.*, 1893, p. 25.
[110] *Rept. Supt. Pub. Instr.*, 1902, p. 146.
[111] *Ibid.*, 1899, p. 292; 1902, p. 149; *Annual Rept. State Charities Aid Assn.*, 1900, p. 10.
[112] *Rept. Supt. Pub. Instr.*, 1899, p. 310.
[113] See above, p. 22, note 29.
[114] *Rept. State Charities Aid Assn.*, 1900, p. 13.

presently. It is also indicated in the matter of prosecutions, concerning which it has to be recorded that no specific case in all this period has come to the attention of the writer.[115] Finally, there are the confessions from the school authorities of many cities that they were not making any effort to enforce the law, or at most were only trying to keep in regular attendance those who become enrolled without much resistance.[116]

Surveying the efforts made to enforce the law, the conclusion is reached that localities made no attempt to speak of to enforce the law until after 1890; that in many places even then no attempt whatever was made to that end; that in most of those which did make some provision, the enforcement was enervated by a lack of zeal in the school officials or an indifferent support from the police; that in only a few was a worthy struggle made with the problems of enforcement; and that in no case did this measure up to the vigor and comprehensiveness necessary to solve them.

Compulsory Attendance: Since 1904.—The strengthening of the compulsory attendance law, begun in 1900, does not appear to have wrought much improvement in conditions until the school law was finally settled by the act of 1903. While the act of 1900 and its immediate successor, the act of 1902, were in litigation, there was hesitancy in many places about taking any steps lest they prove to be wasted if the acts should be found unconstitutional. Besides, the sentiment in behalf of children was

[115] The experience of the attendance officer in one of the largest centers of child employment may be taken as illustrative. From his appointment in 1895 to 1903, he said, he was "simply working a bluff" on offending parents and children because the magistrate would never convict anyone.

[116] *Rept. Supt. Pub. Instr.*, 1899, p. 311; 1901, p. 274; 1902, p. 132; 1904, p. 105.

not then developed. Yet there was some endeavor to apply the law. When the uncertainties had been removed by the act of 1903, public interest in children had grown in many localities to the point of pressing for an improvement in school attendance. Accordingly, from about that time newspaper accounts of attention to the law and of the provision of truancy departments become increasingly frequent. The commissioner of labor, also, remarked upon this,[117] as did also Mr. Fox in his inquiry into the operation of the child labor law in 1905.[118]

The increased activity of the school authorities appeared, in the first place, in the greater provision of truant or attendance officers to enforce the law. This was made in all sections of the state, though not in all places. Newark and Jersey City, especially, detailed a large number of men from the police force to attend to truancy and non-attendance. Yet this improvement was very unequal throughout the state and even intermittent. Many places do not even now provide anywhere nearly adequately for this work and many places have, after half-hearted advances, relapsed into inactivity. Some of the larger factory cities have only one attendance officer. In such cases the results cannot be otherwise than as found in one large child-employing center, where efforts of the sole truant officer are made only to keep the children on the rolls in regular attendance. The truant officer, who stands in excellent repute, said there were hundreds of children not attending school at all whom he could not look after. Not to leave an untrue impression of neglect, however, the splendid achievement of Newark, the largest city of the state, and of some smaller

[117] *Rept. Dept. of Labor*, 1905, p. 5; 1906, p. 5.

[118] *Annals Amer. Acad. Pol. and Soc. Sci.*, Vol. XXV.

towns should be set over against the delinquent communities.

Although the boards of education are at liberty to provide truant officers as they think best, they usually have used their right to call upon the police force for men, because this is the most economical course. The provision of truant officers has thus depended on the coöperation of the police. This, as usual, has been in most cases half-hearted. An agent of the New Jersey Consumers' League reported in 1905 that the assistance of the police seemed to be regarded as generally unsatisfactory.[119] This has been the testimony given to the writer in most cases. The reasons for this have been noted in an earlier criticism of the law in this respect.[120] Newark alone of the large cities seems to have secured an adequate detail of police officers who perform the work with care and interest. Some of the single officers who do the work unassisted in other places appear earnest and diligent, but are unable to do all the work alone.

The effectiveness of the truant officer is closely dependent upon the support he receives when a case reaches the stage where prosecution is the only resort left. In this respect the period under the present law shows marked contrast with the preceding era. Newspapers early report activity in this respect in the largest cities and in some smaller ones. In the prosecution of cases, the Society for the Prevention of Cruelty to Children has taken an active part in a few cities where it has been organized.

This greatly improved interest in the enforcement of the law is not without its opposite. Many boards of education do not push the policy to the point of prosecution. Truant officers have told the writer of repeated

[119] *N. J. Rev. Char. and Cor.*, Vol. IV, p. 234, Dec. 1905.

[120] See above, p. 56.

recommendations to prosecute which have received no attention. Of course the offending parents continue to offend, and the officer's threats become impotent with others also. In smaller towns, especially the glass towns of southern New Jersey, the board of education often includes wage earners, who may work alongside of the man who ought to be prosecuted. One school official of a glass town put it well in saying that the members of the board were reluctant to prosecute their neighbors. It is not always a matter of neighborliness, however. In the small glass towns where the glass works is the only industry, and the population is almost entirely dependent on that factory, it is, in the natural order of things, impossible to arouse very much enthusiasm for the strict enforcement of a law which would affect the supply of boys required for the operation of the factory.[121] Then again, it has been a matter of expense. In one factory town, the justice of the peace who heard the cases brought for prosecution tempered the amount of the fines to the economic condition, as well as the deserts, of the defendant. The fines did not then aggregate enough to pay the costs. He sent the bill for the balance to the board of education. This body thereupon transferred all cases to the police justice, from whom they had been previously taken because he was too easy with offenders.

Sometimes the apathy is with the local magistrates. Indifference, sympathy, or partiality for the offending parents, and political influence have all had a part in foiling prosecutions brought by the truant officers.

Closely related to the matter of prosecutions is that of parental schools. A delinquent parent can be fined. But

[121] For an account of one factory inspector's experience with this local opposition from interest, see *N. J. Rev. Char. and Cor.*, Vol. V, p. 350-1, Jan. 1907.

if his fault is inability to control his child rather than indifference, the corrective measures of the state must reach the child directly. This often requires, for reasons before considered, that the child be segregated from the average school group and dealt with according to his special needs. This matter also was given attention. The State Council of Education of New Jersey, at its session in November, 1904, urged the provision of parental schools.[122] Newark had long had a city home for boys which it readily utilized for the treatment of truants. Elizabeth, at the urgent request of the superintendent, provided in 1905 a separate room with a special teacher for incorrigibles.[123] Hoboken, at the initiative of the woman's club, provided in 1906 for a truant class.[124] The proposal was considered in other localities as well, some of which probably carried it through in some form.

Yet even allowing for possible cases not known to the writer, the number of such rooms or schools was probably very few. At least one attempt was abandoned.[125] It is not unlikely that others were also considering the uncertain state of the public mind in many places. One obstacle was the expense. This was removed by the act of 1906 providing for county schools. But this presented a new obstacle in the difficulty of getting an agreement among the whole population of the county, for some district would feel that they would be taxed for the benefit chiefly of some other more populous district. So far as has been learned, this act has not been utilized very much yet. Another obstacle to parental schools, insup-

[122] *Camden Post-Telegram*, Nov. 15, 1904.

[123] *Elizabeth Times*, Dec. 15, 1904; *Rept. Supt. Pub. Instr.*, 1905, p. 120.

[124] *Hoboken Observer*, Jan. 26, Jan. 30, and Sept. 28, 1906.

[125] *Rept. Supt. Pub. Instr.*, 1903, p. 132; *Passaic News*, Nov. 29, 1905.

erable in some localities, is an opposition to them on principle as an unjustifiable interference with parental authority, or a cautious hesitancy on the part of some who looked favorably upon the purposes of the proposal.

Concerning accommodations, the reports of the state superintendent of public instruction contain local reports saying that the schools are able to accommodate all who apply for admission. Occasionally an admission is made that school facilities are inadequate. But in some of the places from which the favorable reports have come, the writer found the attendance law was enforced only for those on the rolls of the schools, and that the schools were crowded even at that. It appeared very doubtful whether they could accommodate all children if they were compelled to attend. One superintendent said, however, that the elasticity of a schoolroom is surprising and that room could be found if the children were brought in. Another criticism of the efforts at enforcement in many places is that too little attention is paid to the attendance of younger children. When they approach the age of twelve or fourteen they come within the cognizance of the truant officer. But meanwhile they have fallen far behind other children of their age and have acquired habits and a manner that increase the difficulty of compelling their attendance and tend to demoralize the school where they do attend.

Regarding as a whole, however, the efforts to enforce the attendance sections of the law of 1903, it is undeniable that a great deal more has been done than in preceding years. This must be said in spite of the half-way endeavors and the numerous shortcomings that can be asserted of many localities. In some places, most conspicuously Newark because of its size, the attention given to the law has been persistent and thorough, and a notably

complete organization has been effected to administer the law. And, in general, if the latest press reports can be taken as an index, there is a gradually increasing disposition on the part of local school boards to enforce the attendance of children. This is seen even in the case of the controverted amendment of 1908.

CHAPTER VIII.

SUCCESS OF THE POLICY

1883 to 1904.

What has been the achievement of all this endeavor? From the examination of the state's ideals for its child workers and its measures for realizing them, attention must now be turned to the practical question of results. First, for the period from 1883 to 1904.

Minimum Age Limit.—As to what was accomplished toward establishing a minimum age limit, specific, though rare, cases have been found pointing to an earnest enforcement of the law in its early years,[1] but none for the later part of the period. The factory inspectors regularly asserted that illegal child labor had practically disappeared. But this testimony is put under suspicion by the fact that, however clean it reported the state in any one year, the following report always records a further marked improvement.[2]

[1] For example, *Newark Daily Advertiser*, Jan. 16, 1884. Editorial; *Rept. Insp. Fact.*, 1886, p. 24. See also Mrs. Lenora M. Barry, agent of the Gen'l. Assem., K. of L. in 1886 to investigate the condition of women wage earners, quoted in *Rept. Bur. Stat.* 1887, p. 204.

[2] *Rept. Insp. Fact.*, 1886, p. 7, "No extreme cases exist in New Jersey"; 1887, p. 7, notes a "vast improvement in the size of minors"; 1889, p. 6, modestly claims a decrease since 1888 of 1.45 per cent in number of children under 16 years of age; 1890, p. 54, the deputy for the district including Jersey City and Hoboken could "safely" say child labor had decreased 50 per cent since 1889; 1891, p. 7, reports that infant labor was "almost entirely" stopped; 1894, p. 13, the deputy for the southern part of the state, where the glass industry is the largest employer of children, naïvely reports that child labor was so nearly done away with in his district that only glass bottle manufacturers employed it to any extent; 1896, p. 9, reports "only a few" cases of violations;

This rather meagre evidence pointing to an observance of the law is overborne by the weight of evidence to the contrary. It was said in 1884, by a newspaper friendly to the policy at stake, that the effect of the law of 1883 had been "rather to expose the extent of this evil than to do away with it."[3] Less than a year was doubtless too short a time within which to expect much improvement. But reports from successive later dates still show a lax observance of the law.[4] The same general comment is supported further by the amount of well evidenced concealment of children and other practices to outwit the inspectors.[5] Internal evidence in the reports of the inspection department also testifies to a lax observance of the law. He reports in 1887[6] the discharge of 561 children, giving names for 186 of these. He then adds that many more under age were dismissed whose names the inspector did not get. Evidently not

1902, p. 275, deputy for the district including Newark, the most intensely manufacturing section of the state, reports the law is "closely observed" and that employers are very particular as regards age.

[3] *Newark Daily Advertiser*, Mar. 5, 1884, Editorial.

[4] This is the tenor of the testimony of the superintendent of schools for the most heterogeneous manufacturing city of Newark in 1886 (*Rept. Supt. Pub. Instr.*, 1886, App., p. 101), and in 1888 (*Ibid.*, 1888, App., p. 122), and of the superintendents at the chief glass centers of Millville in 1894 (*Ibid.*, 1894, App., p. 108), and Bridgeton in 1897 (*Ibid.*, 1897, p. 208).

[5] Much skepticism has been shown concerning the practice of concealing children from the inspectors. The allegations have often been set aside as fabrications of the inspectors to cover their failure to find children illegally employed. But besides irresponsible rumors, there is abundant evidence, from a variety of sources, that the thing was repeatedly practiced. The writer heard from workingmen, both union and non-union, from former inspectors, and from observers from the outside, specified accounts of such particularity that they cannot be all set aside as worthless.

[6] Page 62. This year the inspector first had the assistance of three deputy inspectors.

a very good observance of the law had been secured[7] in the four years since its enactment, or there would not have been so many to discharge in a single year. Moreover, in the loose manner of the dismissals and in the absence of any records of the individual cases, there is no assurance that a large number of those discharged did not find reëmployment as soon as the inspectors were gone,—an event which has been shown was not forestalled by the form of the law and which, according to the traditions, happened frequently.[8]

An examination of the reports of discharges for the ensuing years contributes to this question. The following table is compiled from the annual reports of the Inspector of Factories. Such data is first reported for 1887, when the Inspector was given the assistance of three deputies.

TABLE VI.

CHILDREN DISCHARGED

1887-1902.

Year	Number Discharged	Year	Number Discharged
1887	186[a]	1895	75
1888	134	1896	77
1889	[b]	1897	323
1890	[b]	1898	25
1891	284	1899	161
1892	255	1900	59
1893	257	1901	30
1894	74	1902	202

[a] The body of the report states 561, of whom the names of only 186 were taken. In the statistical summary the number of discharges is stated as 186.

[b] Not reported.

[7] It is not to be inferred necessarily that the effort at enforcement was weak. Other considerations enter which will be noted in discussing the work of the inspectional force.

[8] As late as 1903, an investigation of child employment by the Bureau of Statistics of Labor and Industry reports a specific case which came to the personal knowledge of its agent. *Rept. Bur. Stat.*, 1903, p. 274.

Such a variation in the number of discharges speaks emphatically of a fast and loose enforcement of the law, especially in the later years, which connotes a lax observance. The greater number and regularity of discharges before 1894, however, would indicate a better observance before that year than after.

It appears further that the inspectors used a discretion beyond the authority of the law which helped to defeat the observance of the age limit. The provisions of the law requiring twelve weeks' attendance at school each year for factory children, between the minimum ages and fifteen years, permitted the inspectors to excuse orphan children from this requirement. When the law first went into effect, the difficulties in the way of immediate compliance with the attendance requirement by all the children affected led the inspectors to grant permits under this provision to large numbers of children.[9] From this extension of discretion it was easy, in time, to grant permits to children actually under age because of family poverty. The use of this discretion not provided in the law was doubtless a result in good part of the pressure of that opinion which opposed the law at the time of its consideration on the ground of the alleged necessities of poor people. By the end of the period it had come to be a frequent practice of most inspectors, especially during vacation periods. Many children, whom the law intended to keep from the factories, were thus admitted under cover of administrative approval.[10]

[9] *Rept. Insp. Fact.*, 1884, pp. 13 and 16.

[10] *Rept. Insp. Fact.*, 1902, p. 275. A deputy inspector complains that children allowed to work during vacation do not return to school as expected. An investigation by an agent of the Bureau of Statistics in 1903 disclosed cases of abuse of the orphans' permit, and gave the practice some comment in the report. *Rept. Bur. Stat.*, 1903, pp. 268, 271, 274, 275.

During the last half of the period such public interest as had existed in the observance of the law appears to have become quiescent altogether. No contemporary testimony has been found for these years. But reminiscent statements published later and the recollections of persons interviewed agree in the opinion that the law came to be disregarded for the most part in these later years. This is borne out by the conclusions of an investigator for the Bureau of Statistics in 1903.[11] If we add these traditions to the meagre contemporary evidence, the whole may be summarized in the statement that the law received during the first half of the period a partial observance which was not fully maintained during the second half.

An examination of the available comparative statistics will show more precisely the results of the policy. In this case also, any hope, however, for a close cut answer will be disappointed. All the statistics available are for children under sixteen years of age. Although variations in these do not necessarily measure changes in the amount of child labor which the state has sought to restrict, a limited use of such statistics may be made for an approximation to the results of the state's policy.[12]

[11] *Rept. Bur. Stat.*, 1903, p. 274. "Up to a comparatively recent time there seems to be no doubt as to the law having been evaded, and even openly disregarded in certain establishments in the glass districts, and also to some extent in other lines of industry."

[12] The age limit during this period was twelve for boys and fourteen for girls. There was thus a large part of those employed under sixteen who were above the legal age and whose numbers bore no direct relation to the activity of the inspectors and might have varied under any of the economic or other influences acting independently of the observance of the law. Variations in the number of these children, moreover, might more than offset any changes for the whole group due to variation in those below the legal age. Before these figures can have any significance for the question on the results of the policy of restriction, allowance

The following table shows that the average number of children under sixteen years old, employed in manufacturing, *as reported by the manufacturers themselves,* nearly doubled between 1870 and 1880 and then more than halved between 1880 and 1890, after which it again increased about one-half, but even so only to two-thirds

TABLE VII.

CHILDREN UNDER SIXTEEN IN MANUFACTURING.

	Total Employees in Manufacturing		Average Number Children Under 16		Per cent of all Employees	
Year	1 Number	2 Per cent increase	1 Number	2 Per cent incr'se (+) decr'se (—)	2 Per cent of all employees	2 Per cent increase (+) decrease (—)
1870	75,552	. . .	6,139	. . .	8.2	. .
1880	126,038	66.	12,152	+94.	9.6	+17.
1890	173,778	37	5,313	—58	3.0	—69
1900	241,582	39 (91)[3]	8,042	+51 (—34)[3]	3.3	+10 (—66)[3]

[1] Twelfth Census, *Manufactures,* Vol. II, p. 540.
[2] Computed by the writer.
[3] Computed on 1880 as the base.

must be made for the effects of all these other influences on the older children under sixteen. The lack of any means for making this allowance accurately limits the closeness of the reasoning permissible upon these figures. But it does not necessarily render them worthless, except in the case of small changes. The greater the change in them, the greater must be the force of the other influences if they are to account for the whole change, and the easier to determine whether those other influences were present with sufficient force to cause the change, or whether a good part of it must be attributed to the plus or minus influence of the inspectors on children in the lower ages. The serviceableness of such statistics, within the general limitations because of their indirectness, thus depends on the amount of variation in them.

It may also be objected to the use of these statistics that, independently of the influence of other factors besides the policy of the state, there would be an increase or decrease in the number employed between the legal age and sixteen compensating a respective decrease or increase of those under the legal age. The

of the number in 1880. This falling off was notwithstanding an increase in the total number of wage earners in manufacturing between 1880 and 1890 of 37 per cent and between 1890 and 1900 of 39 per cent, or a total increase for the two decades of 91 per cent. More significant are the changes in the proportion which such children comprise of the total employees in manufacturing. That is to say, in spite of a steady increase of 91 per cent between 1880 and 1900 in all wage earners in manufacturing reported by the employers, the *number* of children under sixteen so reported decreased one-third and the *proportion* of such children decreased two-thirds:

elimination of illegal child labor would tend to increase the demand for children above the age limit and *vice versa*. It is conceivable that the additions from that source would keep the total number employed under sixteen unchanged; so that the transition to a perfect elimination of child employees under the legal age would be accompanied by no change in the total employed under sixteen. The converse movement is also conceivable. But it is highly improbable that the supply of child workers between the legal age and sixteen would be elastic enough to take up all the change in the number employed below the legal age, or even a large part of it. This has been forcibly felt in the glass bottle industry, since the tightening up of the child labor law in 1904. Further, the demand for child workers is not altogether indifferent as to their age. In some industries there is a premium on the younger children; in others, on the older. If a legal age limit cuts off the services of the younger children, the pressure to substitute machinery, or to reorganize processes so as to use mature help, may be increased, and a readjustment made without a compensating increase in the employees between the legal age and sixteen. This also is illustrated by the glass industry. The pressure for machinery to do the tending boy's work has been increased, though as yet it has not resulted in generally satisfactory devices. But there is a noticeable readjustment of part of the work whereby unskilled adults are each taking the place of two or more "carrying-in" boys. The probabilities are, therefore, that the tendency toward a compensation, within the whole group under sixteen, for any variation in the lower ages would be far from sufficient to keep the total for the group unchanged.

As bearing on the further question whether this decline was common to all child employments or was peculiar to manufacturing, comparison can be made with the changes for children in all gainful occupations, *as reported by the children themselves or their parents to the enumerators for the population.*[13] The following table shows that, although the total number of persons, and the number of children from ten to fifteen years inclusive, engaged in gainful occupations, each about doubled in the twenty years from 1880 to 1900, the proportion of children in gainful occupations only increased little more than one-tenth.

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[13] Here an additional qualification must be noted. The returns are for those gainfully employed persons *resident* in New Jersey, but not necessarily *employed* in the state. A large number of wage earners, as well as professional and business people, resident in the territory adjacent to New York, follow their occupations in the latter place. And this is not confined to the border cities like Jersey City. A machinist, whom the writer interviewed in Passaic, went to his employment in New York daily. This, he said, was not unusual. The same is true of residents of Camden and its suburbs who work in Philadelphia. Children under sixteen probably would not enter into this interstate movement as largely as their elders, so that the number of gainfullly employed children resident in the state would not vary so far from the number who are both resident and employed in the state as would the respective numbers of adults. If this difference between such data for children and adults were constant, it could be disregarded altogether. But it is not necessarily so, and probably has decreased. Of course, there is a counter movement from New York and Philadelphia. But it is certainly much smaller than its opposite. These considerations, which render the occupational returns not quite comparable with the manufacturing returns, would need to be weighed in any close calculation. But the relative difference to the figures for the whole state would be small. And the degree of accuracy in the statistics themselves is not sufficient to justify such a refinement of calculation. In the comparison which the statistics permit, the qualification may be neglected.

TABLE VIII.

CHILDREN, TEN TO FIFTEEN, IN GAINFUL OCCUPATIONS.

Year	Total Persons in Gainful Occupations		Children 10-15 in Gainful Occupations		Per cent of all in Gainful Occupation	
	Number [1]	Per cent [2] increase	Number [1]	Per cent [2] increase	Per cent of all occupied	Per cent [2] increase
1880	396,879	. . . .	14,295	.	3.6	. . .
1900	757,759	81.	30,261	111.	4.0	11.1

[1] Twelfth Census, *Occupations*, pp. CXXIX-CXXX.
[2] Computed by the writer.

It appears from the comparison of the two tables that some strong special influence wrought in the manufacturing group a marked decline in the number and proportion of child employees which was somewhat more than compensated within the whole class of gainfully employed persons. This marked decline of child employees within a particular group, equaling in 1880 31.7 per cent and in 1900 31.9 per cent of the whole class of wage earners, is clear, although uncertainty as to the accuracy of the statistics does not permit the change in the figures to be taken as a measure of the decline.[14]

When query is made as to the reasons for this decline, there do not appear to be any economic or social influences during the period sufficient to account for it. Indeed, some of them tended to the opposite result. When now it is considered that the law upon child labor applied only to manufacturing and mining,—

[14] The manufacturing census of 1890 returned 5313 children under sixteen years, as reported by the manufacturers. The returns of the inspectors, secured in the same way, amounted to 6897. In 1900 the discrepancy was reversed, the census reporting 8042 such children and the inspectors only 4132. But the demoralization of the inspectorial work at the latter date destroys all value in the inspectors' returns as a check on the census.

the latter being unimportant relatively,—the explanation that lies at hand is that the decline was mainly due to the state's restrictive policy. This view is further supported by the fact that the administration during the first ten years of the law's operation was far more vigorous than during the later years. This corresponds with the marked decline between 1880 and 1890 and the nearly stationary condition thence until 1900.[15]

Turning from the question comparing the conditions of the moment with those of the past to that comparing them with the attainable standard striven for, there is much more definite information as to the number of children employed at the close of the period below the legal ages of twelve and fourteen, as well as indirect indices of child employment. The returns of the United States census of occupations in 1900 show the following tabulated information as to the number of children

TABLE IX

AGES OF GAINFULLY EMPLOYED CHILDREN[1]

	Age Groups						
	10	11	12	13	14	15	Total
Males:							
Number employed....	106	246	833	2,108	4,820	8,226	16,339
Per cent of Pop.....	.6	1.5	4.7	12.7	28.6	50.3	15.8
Females:							
Number employed....	74	148	494	1,462	3,561	5,951	11,690
Per cent of Pop.....	.4	.8	2.8	8.7	21.2	35.7	11.2
Total:							
Number employed....	180	394	1,327	3,570	8,381	14,177	28,029
Per cent of Pop.....	.453	1.15	3.52	10.7	24.9	41.8	13.5

[1] *Census Bulletin* 69, pp. 176-181.

[15] Another line of evidence to check up with these would ordinarily be the reports of the factory inspectors, as to children under sixteen years. But the data for the later years is so clouded with suspicion as to destroy any significance for this purpose of the considerable decline shown by them.

gainfully employed in all occupations outside of agriculture.[16] There is given for each sex separately and for both together the number so employed in each age, and the percentage which they comprise of the total population of that age.

It appears that 352 boys and 2178 girls under twelve and fourteen respectively were gainfully employed in 1900. That is a total of 2532. It is not related, however, how many at each age were employed in the manufacturing group of occupations, to which alone, with mining, the law applied. If it is assumed that the proportion of these children who were in manufacturing was the same as for all children under sixteen, namely 59 per cent,[17] then 1494 of them were so employed. That estimate contains too many elements of error to be taken at its face. But even allowing for error and for the fact that not all occupations reported by the children as "manufacturing" were necessarily followed by them in establishments to which the law applied, still the estimate certainly argues from the census returns a large violation of the law.

A clear though less comprehensive index of children under age in factory employment is found in the figures prepared in the bulletin cited for certain industries. The following table presents those for the manufacturing industries included in the bulletin statement. These also, it will be noted, are from the returns of the census of occupations, which were based not on the statements of the employers, but on the replies of individuals as to

[16] There were in agriculture 2232 between ten and fifteen years of age inclusive. Twelfth Census, *Occupations*, p. 168.

[17] There were, according to the table, 28,029 children under sixteen years gainfully employed outside of agriculture. Of these, 16,593 (*Cen. Occup., p. cliii.*), or 59 per cent, were in manufacturing occupations.

the occupations pursued by them and their families. There is given for each age stated the number of that age employed in the industry and the percentage that number comprises of all from ten to fifteen years in the industry.

TABLE X

AGES OF CHILDREN IN SPECIFIED INDUSTRIES[1]

	Age Groups						
	10	11	12	13	14	15	Total
Cotton:							
Number	2	9	37	68	173	192	481
Per cent.....	0.4	1.9	7.7	14.1	36	39.9	100
Silk:							
Number	9	20	97	312	728	1,112	2,278
Per cent.....	0.4	0.9	4.3	13.7	32	48.8	100
Glass:							
Number	15	54	127	159	232	231	818[2]
Per cent.....	1.8	6.6	15.5	19.4	28.4	28.2	100
Tobacco:							
Number	1	4	16	64	151	202	438
Per cent.....	0.2	0.9	3.7	14.6	34.5	46.1	100
Other Textiles....							
Number	1	7	36	154	462	938	1,598
Per cent.....	0.1	0.4	2.3	9.6	28.9	58.7	100
Total:							
Number	28	94	313	757	1,746	2,675	5,613
Per cent.....	0.5	1.6	5.5	13.6	31.1	47.7	100

[1] *Census Bulletin* 69.

[2] All but 43 were boys.

The figures for each sex are not given separately, so that the exact total of boys and girls under their respective age limits cannot be seen. The total under twelve years, 122, is too small by the number of girls between twelve and fourteen. The total under four-

teen years, 1192, is too large by the number of boys between those limits. In the preceding table the total children over twelve and under fourteen comprised 60 per cent boys and 40 per cent girls. That proportion would not necessarily hold for a few selected industries. But if it may be assumed to hold in this case, then, of the 1070 over twelve and under fourteen, 40 per cent, or 428, were girls under fourteen. Adding these to the 122 under twelve, gives a total of 550 children illegally employed in these industries alone.

There is an interesting accord between this figure and the 1494 estimated to be illegally employed in all manufacturing. These five industries were the leading child employing industries. According to the table they included 5613, or *34 per cent,* of the 16,593 children under sixteen years in all maufacturing occupations. The 550 estimated to be illegally employed in these industries constitute *36 per cent* of the 1494 above estimated to be illegally employed in all manufacturing.

In the light of the census returns, it is entirely reasonable to say that something over a thousand children under the minimum age were illegally employed. If attention be fixed on all occupations, instead of merely those to which the law applied, then 2532 children were employed under the ages set as the standard. If consideration be had, not for the legal age, but for fourteen years, which was coming to be the standard, then 5471[18] under fourteen were employed in all industries outside of agriculture, 3227[19] in manufacturing and 1192 in the five especially child employing industries. Some of these figures are estimates and cannot be taken entirely without reservation. But they reveal a very consider-

[18] See table IX.

[19] This is 59 per cent of 5471. For derivation of 59 per cent, see above, p. 178, note 17.

able distance between the success attained for the policy of the state and the goal of that policy.[20]

The conditions at the close of the period are further illuminated from two investigations by different state departments. Both of these were made in 1903 during the term of Governor Murphy. One was conducted by Mr. John L. Swayze, secretary to the Governor, and by

[20] Some further figures of interest, but for a limited area, have come to hand. The superintendent of schools for Trenton made in the year 1899-1900 an inquiry into the reasons for the withdrawals from school during that year. Some of those who left school removed from the city. Of those who left school and still remained in the city, the number who left to go to work and the per centage which they comprised of the withdrawals who remained in the city and of the total in the several grades, is given for each grade in the following table.

WITHDRAWALS FROM SCHOOL FOR WORK, TRENTON 1899-1900[1]

	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	All Grades
Number left to work	23	32	72	83	107	91	53	12	473
Per cent of those remaining in city.....	13	32	55	58	77	81	79	31	55
Per cent of total in grade.	1.04	1.92	6.05	8.7	13	11.46	11.06	4.03	6

[1] Compiled from data in *Rept. Supt. Pub. Instr.*, 1900, p. 309.

The withdrawals for work increased rapidly between the second and third grades, which would be reached before the legal age even by the most backward. The withdrawals continued to increase rapidly to the fifth and sixth grades. There is no way of telling how many of those who withdrew for work were under the legal age. Probably most of those below the fifth grade anyway were under the age limit. This is not to say that the average age of those in the fifth and sixth grades is from twelve to fourteen years. But children who are taken from school and put to work are, from family hardship or indifference, usually more backward than the average for their age. So that they reach the legal age for employment at an earlier grade than the others. Also, there

him placed for the time being in active charge of the factory inspection department during the acute stage of the agitation for a reform of the administration of the law. The object was not to discover the precise amount of child employment, but to settle the question of fact, then in dispute between the critics and defenders of the inspection department, as to whether the law was being violated in an important degree. The work was done by a person engaged entirely outside of the corps of inspectors and supposedly unknown to anyone but those in charge of the investigation.[21] He began his work October 6, and continued throughout the fall and winter. By detective methods a large number of sus-

is no way of telling how many of these below age went into manufacturing employment, to which alone the law applied. Yet, even so, the condition revealed is very unsatisfactory from the point of view of the purpose of a restrictive policy on child employment. For, at the rate of withdrawal shown in each grade about nine out of every one hundred who entered the first grade left school *to go to work* before they had completed the fourth grade, and about fourteen out of every one hundred before they had finished the fifth grade. This computed rate, of course, would not necessarily be the true one, because the children of each succeeding year would not be comprised solely of those who had attended from the first grade in Trenton, or would the number each year be the same as if that were so. Some would have entered each advanced grade on moving into the city from other places. These would probably, in a growing population, more than offset those who had withdrawn. But it is probably sufficiently near the truth to be taken without much reservation. Moreover, this tells nothing of those immigrant children and others who, under the lax enforcement of compulsory attendance, never entered school at all, or who, after leaving for some other purpose than work, turned into some employment never to return to school.

[21] The labor unions had made investigations of their own and had accumulated a mass of evidence and affidavits which they laid before Governor Murphy. But Mr. Swayze did not consider the evidence of a conclusive character. If there were children illegally employed, he wanted the specific cases, with names, residences, family, and age thoroughly attested.

picious cases was easily accumulated. These were sifted by investigation of the addresses given, interviews with parents, reference to school records and officers, to parish records, official registries of births, family records and neighbors. By these methods, applied in Paterson, Passaic, Newark, and the glass factory towns, a residuum of apparently authentic cases of illegally employed children was obtained.[22] No statement of the

Repeated efforts were made during the summer with the regular deputy inspectors, to see if there were such verifiable cases. But, even after transferring to the disputed centers men from other districts, the results were not convincing either way. It was then decided to try an independent investigator who would work incognito. Governor Murphy supplied the money for the investigation from his contingency fund. After trial of several unsuccessful men, the officials of the state labor organizations found the man who did the work.

[22] The reliability of these cases was hotly challenged during the agitation at the time, and the number of violations alleged was declared, therefore, without adequate grounds. The only specific and detailed impeachment which the writer has discovered, however, was that of a person who told him of being given a hundred or more names of suspected children to look up. Of these only a half dozen or so were shown to be under age. For fully a fourth of them, there was no such street number as the one given, or else it was that of a vacant lot. The remaining two-thirds proved to be of legal age. Such was the evidence, it was said, on which the alleged numbers of violations were based. This Mr. Swayze explained to the writer as follows. Before the special agent could sift all the suspected cases he accumulated in any place, it was necessary for him to move to some other point. The unfinished cases were then turned over at a later date to agents for examination. It was some of these names which were given to the person mentioned. The fact that so few of that lot were shown to be under age did not prove there were no more. Every one of the fictitious addresses should be highly suspected, for back of every address was a child who gave it to the investigator; and the wrong address may well have been given to throw him off the trail of a real violation. But in no case, said Mr. Swayze, were violations alleged on the ground of these unverified suspected cases. Only those children whose residence and family had been identified and whose age had been ascertained on trustworthy corroborated evidence were counted in the statements of the number of violations.

exact number of such cases in the aggregate was ever published, though the number in some districts was. As explained to the writer by Mr. Swayze, he refrained from committing himself exactly because the object of the investigation was accomplished without investigating every suspected case or pursuing to a certainty every case investigated; and without that the amount of violation could not with fairness be definitely stated. From the number of cases which were fully sifted, however, Mr. Swayze was convinced that there were "several hundred" children illegally employed in the state as a whole.[28] This, too, was after an agitation for a

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From an interview, also, for half the night with the man who made the investigation, in which he told of his methods and recounted some of his devices for gaining desired information, the writer is convinced that the results obtained must have had a high degree of accuracy.

On the whole, the weight of the evidence is for the approximate correctness of the returns from the investigation.

[28] This Mr. Swayze said in an interview with the writer. In a published interview in December 1903, he said of the textile district,—chiefly Paterson and Passaic,—that in the six weeks the investigator was there, he certified 73 cases of illegal employment and had over 200 suspected cases still. The ages of those illegally employed ranged from eight years up to the limit, then fourteen years. In one large mill, 26 cases were found. (*Newark Evening News*, Dec. 26, 1903.) In the report of the work of inspection for 1903, he said, speaking of a wider area, that there were several factories with from 6 to 20 cases. *Rept. Insp. Fact.*, 1903, p. 5.

The conclusions from this investigation were supported by the testimony of school officials. The Superintendent for Newark said that in September, 1903, all pupils of the preceding June, between twelve and fourteen years of age who had failed to return to school, were looked up. Out of 1000 or so, 200 were found employed illegally. (*Rept. Supt. Pub. Instr.*, 1904, p. 111.) In the report of inspections for 1903 it was stated that returns from eighty schools in manufacturing centers showed 398 children attending who were working in factories the previous year. *Rept. Insp. Fact.*, 1903, p. 3.

year or two, which may have brought an improved observance of the law. It should be noted, also, on the other hand that the number of violations reported was not quite applicable to the period under discussion, because the act of 1903 raising the age limit for boys to fourteen years had taken effect in the preceding September. The industries chiefly involved, according to Mr. Swayze, were glass, cotton, woolen, silk, thread, handkerchief, hosiery, tobacco and cigars.

The other investigation was made by the Bureau of Statistics during 1903. It inquired into several aspects of child labor. For the results on some of these, recurrence will be made to this report. On the matter of observance of the law, it reached conclusions quite the opposite from those just noted. For this it was roundly criticised when the report appeared, at the height of the agitation for a stricter law in the winter of 1903 and 1904.[24] The bureau sent an agent into a number of the manufacturing districts of the state to look up factory children in their homes and inquire into their ages, school attendance, and the other points looked into. Data were collected for nearly a thousand children ranging in age, as stated, from twelve to eighteen. Of these 481 were under sixteen. No boys were reported under twelve years old and only nine girls were reported under fourteen. It was thus shown, ostensibly, that only nine of all those investigated were illegally employed.[25] But the fact that the data for the ages depended upon the statements of the children themselves or their parents

[24] This criticism was first provoked by the advance publication of a part of the report dealing with the relative position of New Jersey in the matter of child labor, based on census figures, and discussing the question of exempting certain children from the law's prohibitions.

[25] *Rept. Bur. Stat.*, 1903, pp. 253, and 273.

impeaches its reliability and renders the evidence on this point worthless.[26]

Although the returns have no value in this connection for the year in which the investigation was made, they do throw light on the observance in years immediately preceding. The report of the bureau for 1903 published the data for each child as well as the summaries for all. This included the present age of the child and his age when he began work. While, as stated, only nine confessed to an age *at the time* below the legal minimum, many more of them gave their age *at begin-*

[26] *Rept. Bur. Stat.*, 1903, p. 273, "The agent obtained his information on ages directly from either the children themselves or their parents." The reasons for suspicioning the replies from these sources are (1) that the agent was from the Bureau of Statistics of Labor and Industry, and might therefore be easily confused by the undiscriminating and suspicious with the factory inspector; (2) he was making a special inquiry into child labor and would therefore have his motives for asking the ages put under suspicion. For these reasons children under age,—instructed always to give their age as up to the legal limit,—or their parents would be induced to conceal the true age. (3) Finally, the agitation of the preceding two or three years, which had continued with cumulative intensity, would have greatly increased the suspicions entertained by child workers and their parents for anyone prying into the ages of the children.

The suspicion of the figures is supported by internal evidence from the report. Though denying that any boys were seen who appeared to be under twelve (p. 273), the agent thought a large proportion of the children in one large factory were of "tender" years, "some boys appearing to be scarcely twelve" (p. 271). In one glass factory there were "several boys who were, undoubtedly, under twelve years, but their right to work was backed up by permits from the factory inspector, or affidavits of parents to prove that, notwithstanding appearances, the children . . . were over twelve years" (p. 274). The reliability of parental testimony, even when sworn to, is here questioned by the agent himself, and his suspicion recorded that the returns were, in this case anyway, incorrect. On the same page as the foregoing is the record that in one of the mills some children were found at work who had been dismissed by the inspector on his last visit.

ning work as below that minimum. From this information it was possible to compute the number who began work each year and the number of these who were under the legal age when they began. The results have been arranged in the following table. From this it ap-

TABLE XI

CHILDREN BEGINNING EMPLOYMENT UNDER AGE[1]

Year	Total Began Employment	Under Age			
		Boys	Girls	Total	Per cent of Total Beginning
1896	1	0	0	0	0
1897	2	2	0	2	100
1898	11	2	4	6	55
1899	103	3	42	45	43
1900	309	9	82	91	29
1901	318	3	79	82	25
1902	173	1	59	60	34
1903	25	0	8	8	32
Total	942	20	274	294	31

[1] Arranged from data in *Rept. Bur. Stat.*, 1903.

pears that out of the 942 for whom this information was given 294, or 31 per cent, began work under age. The number beginning work each year is, except for the years 1899 to 1902, too small to support any deductions. Considering the years excepted, however, it appears from the children's own statements that the number and proportion of those beginning work who were under the legal age indicates a very loose observance of the law. The figures for 1903 are too small to be conclusive, but they suggest that the conditions had not improved as much as the children's statements of their present age would indicate. At any rate, if the results of this limited investigation[27] show on their face very

[27] The number included in the tabulation was 942. Although this included some over sixteen years old, it amounts to less than 12 per cent of the 8042 children under sixteen reported by the manufacturers in the census and less than 6 per cent of the 16,593 reported

little violation of the law in 1903, they also show that violations had been numerous up to the very moment the investigation was made.[28]

Minimum School Attendance.—Inquiring now as to the minimum attendance at school, the section of the law pertaining to that fared little better than the age limit. This attendance was to be evidenced by a certificate from the teacher to the employer. The administrative weakness of this requirement of school attendance has been discussed. The experience with it can now be briefly told.

An honest effort was made by the earlier inspectors at least to enforce this requirement.[29] But success in this matter required the coöperation of the school authorities. This was wanting, partly from a dislike

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by the occupation census as engaged in manufacturing employments.

[28] If the report of the manufacturing census be taken that there were 8042 children under sixteen employed in manufactures and if it be assumed that their ages ranged from twelve to fifteen inclusive and that they were distributed throughout these ages in the proportions shown in table X, then 3860 were beginning employment each year. Taking now the figures for 1900 and 1901, the years for which the returns of the investigation by the Bureau of Statistics were largest, it appears that something more than 27 per cent of those beginning employment were under legal age. For the whole state, that would argue that 1032 of the 3860 beginning employment each year were under legal age. If the 16,593 children reported by the occupation census be taken, then 7964 began work each year, of whom 2150 were under legal age. Since some of the figures in the calculation are not above suspicion and since some important qualifications have been omitted from it, the results cannot be relied upon. But they suggest that in all probability the law was greatly disregarded.

[29] The factory inspector's report for 1884 gives evidence of that (pp. 13, 16, 17). The testimony of two of the deputy inspectors for that early period, whom the writer was able to find, also indicates that. Similar testimony from three of the later inspectors has the same import so far as their districts were concerned.

for the bother of the schooling certificates, but chiefly from insufficient accommodations. At first it was a lack of buildings so acute as to compel the inspector to wink at the law for a while.[30] This, for one thing, gave the traditions a wrong start. But in time the question of accommodations became a question of night schools,[31] attendance at which was accepted by the law. But these were not very widely provided. So it came to be that unless night schools were provided, little effort was made to enforce the law. In general, the activity in its behalf varied greatly as between the inspectors in the different districts and between successive inspectors in the same district.[32]

[30] *Rept. Insp. Fact.*, p. 16.

[31] *Ibid.*, 1887, p. 9. The employers disliked the changes in their working force occasioned by the children complying through attendance at day school. This, coupled with the desire of the children not to lose any time from work, induced the children to depend on night schools.

[32] The superintendent of schools for Paterson complained of the non-observance there in 1895. (*Rept. Supt. Pub. Instr.*, 1895, p. 271.) Some of the inspectors of the later years confessed to the writer their inability to enforce this provision, though in some cases the fault may well have been in the lack of enterprise by the inspector. That the provision failed of passable observance is also augured by the ill reputation it had at the close of the period. See, *e. g.*, *Message Governor Murphy*, 1903, p. 9-10, and testimony at committee hearing on the bill of 1903 to raise the age limit to fourteen years for boys and abolish the attendance requirement. *Newark Evening News*, Feb. 11, 1903.

The ununiform and intermittent character of the efforts at enforcement are shown in the inspectors' reports of the number of certificates of attendance ordered each year. The figures cannot be trusted for exactness, but they serve the present purpose. Even when certificates were ordered, it does not insure that the attendance requirement was then fulfilled, for, by the testimony of former inspectors interviewed, the children were seldom discharged pending the filing of a certificate. They were ordered to attend night school until the condition was met. But, as will be seen presently, there was inadequate provision for insuring their at-

Since compliance with this provision was by way of the night schools, it will be in point to note what was done through them. First as to the provision of them. The inspector's report for 1889 records that night schools had been opened in all the cities and in many of the small manufacturing towns and were well attended.[33] But either this was optimistically colored or there was a marked reaction leaving only intermittent provision in many centers. Later reports of the inspectors testify to this.[34] The lack of public provision is attested by the efforts of employers in certain cases to supply the need.[35] From the evidence it appears that fairly regular provision was made in some places, either by public authorities or employers; that in other centers irregular at-

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tendance, unless the employer,—as many did,—saw to it. When the employer,— as many others did not,—took no interest in the matter, the child could disregard the order with impunity. For there was little to fear in most places from any truant agent, and before the inspector could return, the child might be beyond the age, or be employed elsewhere. The data are given in the following table:

SCHOOL ATTENDANCE CERTIFICATES ORDERED[1]

Year[2]	Number of Districts Reporting	Total Certificates Ordered	Year	Number of Districts Reporting	Total Certificates Ordered
1891	1[3]	50	1897	4	217
1892	1[3]	20	1898	2	44
1893	..	...	1899	4	411
1894	1[3]	6	1900	5	1,283
1895	2	235[4]	1901	6	2,162
1896	..	...	1902	6	928

[1] Compiled from *Rept. Insp. Fact.*

[2] Not reported before 1891.

[3] Same one of the six districts.

[4] There were 223 from a district not before reporting.

[33] *Rept. Insp. Fact.*, 1889, p. 6.

[34] *Ibid*, 1893, pp. 45, 57; 1894, p. 29; 1896, p. 33; 1899, p. 49; 1902, p. 238.

[35] *Ibid*, 1884, p. 16; 1889, p. 6.

tendance caused a discontinuance, to be followed, possibly, in a later year by a new effort; and that in many places the children lacked any opportunity for night school attendance. The condition in this respect, however, improved toward the end of the period.[36]

When it is inquired how large the attendance at night school was, the answer is rather unexpected after reading the complaints of want of facilities. From the first the inspector's reports contain testimony of an appreciable attendance by factory children.[37] This is supplemented in the later years by other evidence.[38] It should be noted, also, that many employers insisted on their child employees conforming with the law in this matter.[39] But at the same time there is evidence that, however gratifying this attendance was, absolutely considered, it was relatively less than a compliance with the law required. As early as 1887 the inspector noted an irregularity in attendance for want of truant officials connected with the night schools.[40] This complaint for the whole period survives in the recollections of persons interviewed by the writer. Later recorded testimony also points to a very important deficiency in the attendance demanded by the law.[41] Some measure of that deficiency is given in the following table compiled from the returns of the investigation by the Bureau of Statistics. There were 209 who reported their ages as

[36] See *Repts. Supt. Pub. Instr.*

[37] *Rept. Insp. Fact.*, 1885, p. 26; 1893, p. 45; 1894, pp. 39, 51; 1896, p. 69.

[38] *Rept. Supt. Pub. Instr.*, 1902, p. 132; *Rept. Bur. Stat.*, 1903, p. 259.

[39] *Rept. Insp. Fact.*, 1899, p. 135; *Rept. Supt. Pub. Instr.*, 1904, p. 133. Also testimony of some inspectors of that period.

[40] *Rept. Insp. Fact.*, 1887, p. 10.

[41] *Ibid.*, 1901, p. 229; *Rept. Supt. Pub. Instr.*, 1902, p. 157.

under fifteen years and also stated whether or not they attended night school.

TABLE XII

ATTENDANCE AT NIGHT SCHOOL

Age	Total Reporting	Attended Night School			
		Yes	Per cent Total	No.	Per cent Total
12	5	0	0	5	100
13	21	2	9	19	91
14	183	52	28	131	72
All Ages	209	54	26	155	74

Minimum Physical Condition.—The power of the inspectors to require a certificate of physical fitness does not appear to have drawn enough attention to cause any records to be made concerning it. Nothing has been discovered in the inspector's reports bearing on the use of that power, or has any evidence from any other source come to the attention of the writer. It cannot be said that it was never used. But on the other hand, there is nothing to prove that it ever was. The silence of all persons concerning it points to a neglect of it.

Hours For Children.—The observance of the law limiting the hours for children under sixteen years to ten a day and sixty a week can be ascertained only in part. It was found that, at the close of the preceding period, the regular scheduled work day was pretty generally within ten hours, but that a great deal of overtime was exacted even from children, and that the exceptions to the ten hour day were mostly in industries employing women and children.[42] The report of the factory inspector in 1888 gives the hours worked in all the establishments inspected. From that data, it appears

[42] See above p. 25.

that there were 31 whose regular running time was over ten hours for the first five days of the week, though not over sixty hours for the whole week. There were 2 which ran eleven hours the first five days and sixty-one hours for the week. In all of these 31 establishments, there were 558 children under sixteen years of age, which is only 8.5 per cent of all children under sixteen years reported for the factories inspected. But as the returns for hours were incomplete, this percentage is probably small. All but 15 of these 558 were in textile industries of some sort. This would indicate a small amount of violation for the state as a whole, but a great concentration of it in one group of industries. Here again the regular scheduled day appears to have been within the law in all but a few cases, which affected only a small proportion, although an important number, of the children under sixteen years. But nothing was said of overtime. So that a fair comparison with the conditions before the law was passed cannot be made.

No other evidence for the period has come to hand until an insight into the practice at the close of the period is secured from the investigation by the Bureau of Statistics in 1903. This included 938 children from twelve to eighteen years of age. From the statements of these children, only 4.3 per cent of them had regular working days of more than ten hours.[48] That is about half the proportion in 1888, but the number of cases considered was only a fraction of those in the former year, so that the difference cannot be taken at its face. As to overtime in 1903, it was reported by only 8 males and 35 females. The number of hours of overtime ranged from five and a half to eleven hours a week. It is suspicious that all this was reported from the southern

[48] *Rept. Bur. Stat.*, 1903, p. 253.

part of the state, none being reported for the much greater manufacturing centers of the north, including the textile centers of Passaic County.[44]

Contemporary testimony on the observance of this law is not abundant. The reports of the inspectors do not give much attention to the enforcement of the law, although they frequently complain of the hardship of the long hours upon children. It appears, however, that some effort was made, though not uniformly by all the inspectors,[45] to secure a compliance with the law. But their influence could not have been great. No records of any prosecutions are made. The tendency of the time was in the direction of a shorter day and the compliance secured was probably that of the more willing employers who did not require much pressure to decide them. Certainly no very unwilling employers were among the number; for there were no contests such as would follow a vigorous attempt to enforce a law touching employers at so sensitive a point as the length of the working day and week.

The act of 1892, limiting hours to fifty-five a week, was never enforced, though many employers complied with it voluntarily so far as children were involved. The uncertainty during the years of litigation, followed by the appointment of a less energetic inspector, combined with the loss of prestige which the law suffered from the attacks upon its constitutionality, all contributed to a quiet relaxation of efforts in behalf of its observance. No one, not even the labor organization,

[44] *Rept. Bur. Stat.*, 1903, p. 254.

[45] This appears from interviews with inspectors of that day. One said he never tried to enforce the law. He noted the pressure upon manufacturers to get out their orders and always told them to go ahead.

cared to spend energy on a measure suspected of having no vitality. Observance thus became entirely optional.

Health and Safety of Children.—The law for safeguarding the health and safety of children, like that to insure a minimum physical condition, appears to have received no attention. It is doubtful if it had any effect at all on the practice of employers and their foremen. Many would not endanger a child employeee in such a manner, even if there was no law on the subject. The precautions of such as these were taken regardless of the law. Those who were indifferent to this interest of their child workers, probably felt little if any check upon their practice on account of the law.[46]

Compulsory Attendance.—As would be expected from the apathy disclosed, the results from the law were very meagre. As usual there is lacking any reliable measure of these results. On the negative side there is testimony showing that many children escaped from the requirement of the law.[47] Governor Abbett in his message of 1887 gave figures for twenty cities and

[46] A little light on the rigor of children's labor is found in the returns of the investigation by the Bureau of Labor. There were 485 children who reported their ages as under sixteen and stated the position in which they had to work. Their answers are tabulated in the table.

POSITION OF CHILDREN AT WORK 1903

Age	Total	Position at Work					
		Sitting	Per cent Total	Standing	Per cent Total	Both	Per cent Total
12	5	1	20	2	40	2	40
13	21	5	24	9	43	7	33
14	183	73	40	51	28	59	32
15	276	99	35	91	33	86	32
All Ages	485	178	36	153	32	154	32

[47] *Rept. Insp. of Fact.*, 1887, p. 9; *Rept. Supt. Pub. Instr.*, 1887, p. 35; 1890, App., p. 78; 1897, p. 238.

towns showing that 12,365 children between seven and twelve years of age,—the period of compulsory attendance,—had attended school less than the required twenty weeks, and that 26,456 had attended no school, public or private, at all.[48] The present recollections of men of those days, also, agree that the law was far from bringing the results desired.

Yet the law was not without appreciable effects. That is shown by testimony[49] and is evidenced by the steady, though small, improvement in the percentage of the total enrollment in daily attendance in the twelve cities before considered.[50] The following table shows this improvement in average daily attendance.

TABLE XIII.

PER CENT AVERAGE ATTENDANCE OF ENROLLMENT 1881—1900[1]

Year	Average Attendance	Year	Average Attendance
1881	60.4	1891	65.3
1882	60.6	1892	67.2
1883	62.9	1893	65.3
1884	63.0	1894	66.6
1885	65.6	1895	67.0
1886	64.5	1896	68.8
1887	65.1	1897	69.5
1888	65.1	1898	70.5
1889	66.7	1899	67.3
1890	65.3	1900	67.9

[1] Compiled from *Repts. Supt. Pub. Instr.*

[48] The figures are not above suspicion since they were computed in part from the returns of the school census. (See above, p. 19, note 26). Yet, considering that they pertain to the ages 7 to 12 years, while the manipulation of the census was chiefly confined to the margins of the period of school age, they may be taken as sufficiently near the truth to conclude from them a considerable failure of the law to secure the results sought.

[49] *Rept. Insp. Fact.*, 1891, p. 11; *Rept. Supt. Pub. Instr.*, 1894, App., pp. 108 and 129; 1901, p. 296.

[50] See above, p. 22.

The percentage of enrollment in daily attendance averaged around 60 from 1876 to 1883 when it began to rise and continued until 1885. Since the compulsory attendance law was not passed until 1885, this abrupt improvement in the attendance could not have been due to that. It is not unreasonable to attribute it in some part, at least, to the child labor law of 1883. Be that as it may, from 1885 to 1890 the percentage in attendance fluctuated closely about 65. This suggests just such results as would be expected from the meagre and indifferent efforts to enforce the attendance law during those years. From 1892 a gradual but small improvement is noted until the end of the century. This is not enough change to prove the efficiency of the law, but it coincides with the slowly, although inadequately, widening attempts at enforcement.

CHAPTER IX

SUCCESS OF THE POLICY.

SINCE 1904.

The observance of the law since 1904 has been far superior to that at any time prior to that date. This has been due chiefly to the fact that the new department of inspection has made a noteworthy endeavor to enforce the law. There has been also a marked improvement in the local efforts to enforce the compulsory attendance law.

Conditions Favorable to Observance.—But besides the stronger endeavor to enforce the law, the observance of it has profited by some favorable conditions. One influence for better observance has been the wider militant interest in the law. The committees appointed by local trade unions during the agitation for the present law were continued as local vigilance committees.[1] Philanthropic societies took a corporate interest in the enforcement of the law, both in action at their larger conventions[2] and in observing and reporting to the inspectors the conditions in their several localities. These activities were all limited to reporting suspected cases to the inspectors and follow-

[1] Most active, probably, was the Essex Trades Council of Newark and vicinity. It early took steps to stimulate public interest in the law. See *N. J. Rev. of Char. and Cor.*, III, p. 215.

[2] Such were the State Federation of Woman's Clubs, *Newark Advertiser*, Oct. 24, 1904; the Convention of the New Jersey Congress of Mothers, *Ibid.*, Oct. 27, 1904; Annual Meeting of the New Jersey Consumers League, *Ibid.*, Oct. 25, 1904; and the Annual Convention of the Woman's Christian Temperance Union, *Hoboken Observer*, Oct. 29, 1904.

ing them up. But in a few localities independent prosecutions were conducted by the Society for the Prevention of Cruelty to Children.[3] These independent prosecutions were not always conducted with wisdom, but they added to the pressure for an enforcement of the law. Finally, the newspapers gave publicity, even if often in a sensational manner, to all that was going on. The public interest was thereby constantly stimulated and kept alert.

Another favorable condition was a far less resistant, if not a more sympathetic, attitude of the employers. The reports of the Department of Labor repeatedly comment on the apparent desire of the body of manufacturers to comply with the law, a desire expressed in various efforts to meet the department half way, and more, in observing the law. This same attitude was displayed in many interviews had by the writer, even after allowing for all appearances of dissimulation. There can be no doubt that experience since the law was passed has led employers to look with much less fear for their business upon the present age limit for child labor and, fearing less, to let their approval of the general purpose of the law dominate their opinion of it.[4] That there are still many whom the advocates of the law consider as unregenerate does not minimize the truth of the above statement as to employers at large.

Conditions Unfavorable to Observance.—Although the times have been far more conducive to observance, there has been no lack of resistance to the law. As a rule this has been most pertinacious among the small em-

[3] *Rept. State Charities Aid Assn.*, 1907, p. 11.

[4] This change of sentiment on the part of employers was noted by Mr. Hugh F. Fox, in a review of the operation of the new law in 1905. See *Ann. Amer. Academy of Pol. and Soc. Sci.*, Vol. XXV, May, 1905.

ployers as a class, although individual pertinacity has nowhere excelled that of some large child-employing manufacturers. A good part of the resistance by the large concerns, however, is without the special sanction, or even the knowledge, of the heads of the business. Superintendents and foremen, under the pressure of their superiors who look only to the expense account and the output, resort to the employment of children under age when that promises to reduce expenses, or when no older children are immediately available to help get out the work on time. This is no part of the policy of the concern. Yet when this happens repeatedly, as is related of some manufacturing establishments, it must be regarded as tacitly sanctioned. Many concerns, in order to prevent such repetition, have placed the hiring of all children, if not all employees, in the hands of one person, to whom department heads and foremen send when in need of additional help. This brings every child with his papers under the eye of one responsible person.

That there has been intentional resistance to the law is shown by the attempts which have been made to thwart the inspectors by concealing children or by sending them home when the officer made his visit. This was done much more in the early years of the present law than has been done lately. Experiences related to the writer by some inspectors with concerns both in the glass country of the southern part of the state and in the varied manufacturing districts of the north, with direct and mutually supported testimony from employees, in both sections, indicate that many employers, especially glass manufacturers, determined to test the earnestness and determination of the new corps of inspectors at the outset. Much of this was probably looked upon by subordinates and foremen, as well as children, as a game which they

thought to enjoy with the inspectors. But the determination displayed by the department in spite of every baffled effort and the large number of prosecutions successfully undertaken apparently made the game too costly for most resistants, for testimony from the same sources indicates a great falling off in such tactics. Yet there still appear to be a few who seek to evade the law as far as they can.[5]

Another source of resistance to the law is the sympathy for the poor, in the absence of any provision to supply their needs while their children are kept from work. This influence will be plain from a foregoing criticism of the present law for lack of provision for cases of hardship.[6]

The influences resisting an observance of the law, when written by themselves, appear large. But in fact the balance between them and the influences supporting a good enforcement of the law is very much on the side of a high degree of observance. The present period is distinguished from the preceding one by nothing more than by the force, alertness, and universality of the opinion in behalf of the law.

[5] In examining the evidence pertaining to this matter, the writer has distinguished between the loosely formed, indefinite, and general assertions, which everywhere circulate in factory towns among all kinds of people, and specific cases cited to him with particulars. Not all of the latter, even, can be taken without some reservation. According to the former, the inspectors have always been and are still everywhere and always fooled. That is far from true. But a consideration of the latter sort of evidence, after allowing for varying reliability, has satisfied the writer that much effort was made, and not without success, to hoodwink the inspectors for a while, but that the persistency of the inspectors and their usual ultimate success has convinced many resisting persons of the futility of their course. The writer has not been convinced, however, that this resistance has ever been true of employers as a class during the present period, or that it is true at the present time of more than a very small number.

[6] See above, pp. 118 *et seq.*

Minimum Age Limit.—With the public mind in such a temper, a good observance of the law would be expected. And that is found. The newspapers during the first six months of the law were full of accounts of the discharge of children from factories. These usually employed a round number, well above the truth, to describe the event. But the fact of the discharges to an unusual degree may be noted regardless of the exaggerated reports of the fact. The child labor committee of the Essex Trades Council reported that the law was well observed in Essex County, which contains the large manufacturing city of Newark.[7] Mrs. Florence Kelly wrote that the new law was unquestionably obeyed in the glass factories far more than any law had ever been before.[8] The city clerk's office at Newark felt a new and extraordinary demand for birth certificates from the public registry.[9] The glass factories suddenly found themselves put to it to find boys enough over fourteen years of age, so great was the number who were discharged as being under the age.[10] Woodbury, a glass manufacturing town, closed its night schools because the former night school pupils had entered day schools. This was said to be a common experience in the South Jersey towns.[11]

The most comprehensive testimony to the observance of the law is found in the results of an inquiry by Mr. Hugh F. Fox, made in 1905. A list of questions on the operation of the new law was sent out to superintendents of schools in all the various cities, and also to others who

[7] *Essex County Observer*, June 26, 1905.
[8] *Charities*, XIV, p. 798, June 3, 1905.
[9] *Newark Evening News*, Sept. 6, 1904.
[10] This was reported at the time in various papers. It was also stated to the writer in every interview with glass factory officials.
[11] *Newark Advertiser*, Dec. 4, 1904. See also *Message Gov. Murphy*, 1905, p. 15.

were dealing with children of the poor, such as child-caring and charity organization societies, probation officers, truant officers, and priests whose parishes included large parochial schools, and some of the best informed clergy of other denominations, and labor leaders. "Replies to these questions indicate that, so far as their observation and experience extends, the persons to whom the inquiries were addressed are substantially convinced that the child labor laws are being enforced with remarkable thoroughness."[12]

This favorable testimony must be offset by some of a contrary sort. Contrast with former conditions made the success attained under the new law so conspicuous that it was the only thing noticed for the first six months or year. Then it had come to be taken somewhat for granted and violations were noticed with more attention. From the middle of 1905 on, the newspapers contain items and editorial comments alleging violations of the law. But these cannot be entirely relied upon. More trustworthy are a few early statements by other observers.[13] With the progress of time, complaints of violations were made with more deliberation. Mr. Fox said in December, 1907, that there was need of a more rigid enforcement of the law. The New Jersey *Review of Charities and Correction,* in an editorial of January, 1908, reflected complaints of a greater disregard of the law in the

[12] *Annals Amer. Acad. Pol. and Soc. Sci.,* Vol. XXV, May, 1905.

[13] The superintendent of schools at Millville in 1905 and 1906 showed skepticism of the observance of the law in that city. (*Rept. Supt. Pub. Instr.,* 1905, p. 135; 1906, p. 133.) The inquiry by Mr. Fox, referred to above, showed that the school superintendents of Bridgeton, Orange, and Perth Amboy did not think the law well enforced in those cities, although they were the only superintendents so reporting. Replies from others than superintendents of schools contained two to the effect that the law was not fully enforced, but they did not definitely reveal more than meagre violation.

glass factories.[14] The president of the Federation of Trades and Labor Unions in his annual report to the convention in August, 1907, said that in spite of prosecutions by the Department of Labor, illegal employment of children was still practiced in certain sections of the state.[15]

As to conditions at the present time, the writer has encountered widely varying opinions. Wage earners, trade-union officials, workers in charitable organization and philanthropic and civic societies, business men, clergymen, school officials, all are divided as to whether the law is being violated or not in their own localities. It would be bootless to repeat all this testimony, especially as much of it must be rejected. The valuation of it may be passed over for the moment until some considerations affecting any judgment are noted.

Before drawing any conclusions in this matter, it is due the reader to give some index of the unreliability of much of the testimony commonly offered on this point as the basis for judgments of the observance of the law. Many complaints of violations are worthless on their face. Some complaints show plainly an ignorance of the requirements of the law and charge as violation cases that are clearly outside of the law. Some charges are plainly so exaggerated as to appear to be made without any regard for the actual facts, but rather as sweeping general charges unrelated to specific cases. Many of the allegations of violation are but repetitions of a tradition concerning particular factories which won a bad name in years gone by. At times, charges have been made purely for purposes of agitation.[16] Many charges are carelessly,

[14] Vol. VII, p. 17.

[15] *Proceedings Conv. 1907*, p. 10.

[16] One labor leader publicly charged that the law was altogether disregarded in the glass factories. When asked by an inspector

if not culpably, made by persons without any adequate opportunity to observe the facts or without any effort to investigate and distinguish appearances from the truth.[17] The writer himself was regaled with a great many tales of wholesale violations, of which his informants, when pressed for more particularity, proved to have no personal knowledge, or any indirect knowledge of any specific cases, or any other basis worth considering for the large assertions so confidently made. Yet it is out of such as these, as well as *bona fide* violations, that rumors grow and circulate in a locality and are finally repeated or published throughout the state.

Most complaints of violation made in good faith are based merely on observation of children as they enter or leave a factory. Children are seen who appear to be under age, therefore it is charged that violations are practiced. This sort of evidence, however, is wholly unreliable taken by itself. Working children include so many who have grown up without proper care or nourishment that the appearance of children about a factory is very deceitful as to their true age. Charges of violation, based on this sort of evidence, cannot be considered

afterward for specific references so that investigation might be made, the leader replied that he was only creating a sentiment.

[17] A clergyman, who had taken part in the agitation against child labor, publicly stated before an annual meeting of the New Jersey Conference of Charities and Correction that there were hundreds of cases of illegal child labor right in Newark. A factory inspector who was present asked him at the close of the session if he was speaking of facts of which he knew. He hedged in replying and confessed that he was speaking only from hearsay and supposition. An inspector, who has been given many of the cases of alleged violation, reported by various persons, to run down and verify, said to the writer that only a very few indeed of such complaints ever prove to have any basis in fact. A number of specific cases described revealed the most flimsy grounds and most ill-considered conclusions from them.

in any careful attempt to estimate the degree of observance secured for the law.[18]

These facts have required that a great deal of the testimony that has come to hand, both published and oral, be rejected; and have tempered the positiveness of the conclusion drawn from that which has been retained.

The interpretation of that evidence has been influenced also by the writer's own observations, made partly in company with inspectors and partly alone. Those observations may be summarized in a few sentences. Some thirty factories were visited, ranging from the largest to the smallest, and including six glass factories ranging from one with but one "tank" to the largest two in the state. In selecting these thirty factories it was endeavored

[18] The writer's experience with this sort of evidence may be worth recording. A certain textile mill had been named by several persons as a persistent and wholesale violation of the law. The writer was told that if he would watch that factory dismiss he would see in the size of the children positive proof of the charges. He stood at the gate and watched the employees enter one morning and counted twelve children who, on their size and appearance, he was sure were under fourteen years and some he thought as low as twelve. When later in the forenoon he met by appointment one of the lady inspectors, he requested that the textile factory in question be visited. In this inspection, the names of seventeen children were taken whose appearance was suspiciously young. Of these seventeen, there were eight or nine whom the writer positively remembered as having seen enter in the morning. These at least were not "concealed" from the inspector. Judging by the number of young looking children found in the factory as compared with the number seen to enter, there was no probability that any were concealed. As child after child was added to the suspicious list, the writer began to think that the charges he had heard were going to prove true. On looking over the file of papers in the office, however, satisfactory papers were found for every one of the seventeen, except one girl whose affidavit was accompanied by no supplementary evidence. At the direction of the inspector, she brought a birth certificate the next morning. A baptismal certificate for one boy made him out to be sixteen years old, which seemed incredible. To satisfy the doubt, recourse was had to the local rectory from

to choose typical industries and to include those establishments popularly branded as the worst offenders. In ten of these the children were noticed individually and the names were taken of those appearing young for examination of their papers on file at the office. In only three cases were the proper papers wanting, in two of which they were on hand for the inspector the following day. The third case was that of a boy under fourteen in the office of a manufacturing concern. The proprietors had not observed that the law applied to children in the office as well as in the works of a factory. This boy's discharge was ordered by the commissioner of labor and promptly effected. Want of time forbade such a detailed inquiry in all of the places visited. But notice was taken of the size and appearance of children and comparison made with the appearance of those children whose papers had been examined. In all these remaining factories together, not as many children of suspicious size were found as in two textile mills where a careful and individual examination proved all to be of full age. The writer

which the certificate was issued. The registry of baptisms for the year alleged showed the entry of the boy's name as stated in the certificate.

There was left this possibility of deceit. The papers filed in the office may have been issued to other and older children and transferred to those in the mill who assumed the names in the papers. Aside from the great improbability of so many children working in the same place under such a transfer of papers, was the experience of this particular inspector in running down just such remaining possibilities by looking up the family. On that experience, the chances were small that any of those in the mill would be found inaccurate. Reluctance to spend more time on the matter caused the writer to let that chance go unverified. This test, with a similar one on nearly the same scale in another mill in the same section, and the examination of a large number of papers in other sections, have satisfied the writer that the age of working children cannot be told with any reliability by the method of examining the teeth, so to speak.

does not say that there were none under fourteen years among these unexamined cases. He should want to verify each case first. But in the light of his experience with the appearance of children, he is far from asserting, without such verification, that any of them were under age. The chances are that not more than a very few, if any, would have proven too young.

It is not probable, as some will object, that any children were concealed. The writer, unaccompanied by any inspector, offered no occasion for fear on the part of any employer. Besides, while shown every courtesy, in most cases no apparent attention was paid to him as he loitered through the shops. Indeed, in one glass factory, with as bad a name formerly for child labor as any concern in the state, he was promptly given a pass and told to go where he wanted, the superintendent excusing his apparent lack of courtesy on the ground of a pressure of interests at the time requiring his attention.

The writer does not regard his own observations as sufficiently comprehensive or sufficiently minute in all cases to support of themselves any very positive general statement on the observance of the law. There is too much assertion of that sort after a running survey of a few spots in the field. It should be noted also that these observations were made in the summer and fall of 1908 when industry was still suffering from the depression. Especially in the glass industry was employment greatly reduced. Boys are usually at a premium in glass towns, but the writer was everywhere told that the slack times rendered more boys available than were needed. The usual pressure to take children under age was thus absent. The testimony from various persons leads the writer to think that he saw the factories in a better than average condition as to the employment of children.

When all this evidence is gathered together and weighed, it indicates, in the writer's opinion, that, with the cleaning up of the inspection department begun under Mr. Swayze, there began a rapid improvement in the observance of the law, which was continued as rapidly in the early years of the present law and has maintained a slower but steady improvement ever since. At the present time, it indicates a close, though hardly a complete, observance of the law.

Some statistical indication of the observance of the law is found in the fact that in the first of fourteen months of the law's operation some 7000 affidavits and accompanying papers were sent to the department at Trenton.[19] Of these, 3000 were sent in the first two months.[20] These would be large the first year because all children between fourteen and sixteen would be required to have them. That the new generation of factory children reaching the age limit each year has also complied well with the law is indicated by the fact that, since the beginning of the law's effect, some 26,000 such papers have been submitted to the department, of which 7000 were submitted during the year 1908-1909.[21]

Another index is found in the statistics of employment of children under sixteen. The following table affords a comparison between the year 1900 and the year 1904. The act of 1904 did not take effect until September 1 of that year. But the act of the previous year, raising the age limit to fourteen years for boys as well as girls, was in effect and the more vigorous enforcement of the law under the present commissioner of labor had begun.

[19] *Rept. Dept. of Labor*, 1905, p. 4.

[20] *Rept. Insp. Fact.*, 1904, p. 5.

[21] See above, p. 105 *et seq.*

TABLE XIV.

CHILDREN IN MANUFACTURING IN 1900 AND 1904.

	Average Total Employees[1]			Children under 16 yrs.[1]			Per cent Children Under 16 yrs.[2]		
	1900[3]	1904	Per cent Increase	1900[3]	1904	Per Cent Increase	1900	1904	Per cent Decrease
Whole State	213,975	266,336	24.5	7832	8002	2.2	3.6	3.0	16.6
Urban	163,037	200,711	23.1	5383	6453	19.9	3.3	3.2	9.09
Rural	50,738	65,625	28.8	2449	1549	−36.8	4.7	2.3	51.0

[1] Census of Manufactures, 1905, Pt. II., p. 645.

[2] Computed by the writer.

[3] These figures for 1900 are somewhat smaller than those reported in the Twelfth Census. This is due to a selection to make the 1900 returns comparable with those of 1905. The census of 1905 omitted all the small establishments and took account only of the larger ones. These numbered 7010. For purposes of comparison, only those establishments reporting in 1900 were taken which were comparable with those reporting in 1905. These aggregated 6415 out of the 15,481 reported in 1900. But the totals for employees are only slightly lessened thereby.

The change in some of the principal child employing industries is shown in detail in the following table.

TABLE XV.

CHILDREN IN SELECTED INDUSTRIES IN 1900 AND 1904.[1]

Industry	Average Total Employees			Children under 16 yrs.			Percentage of Children Under 16 yrs.		
	1900	1904	Per cent Change	1900	1904	Per cent Change	1900	1904	Per cent Change
Cotton Goods	5518	5362	−3	641	498	−22	11.6	9.2	−21
Dying and Finishing	7074	7597	+7	168	119	−29	2.3	1.5	−35
Glass	5383	5507	+2	847	568	−33	15.7	10.3	−35
Hosiery and Knit Goods	1841	1742	−6	152	73	−52	8.2	4.2	−49
Linen Goods	1476	1827	+24	316	346	+9	21.4	19.0	−12
Silk and Silk Goods	24,157	25,481	+5	1199	1173	−2	4.9	4.6	−6
Cigars and Cigarettes	1640	6073	+270	79	351	+344	4.0	5.7	+42
Woolen Goods	2942	2676	−10	187	157	−16	6.0	5.8	−4
Worsted Goods	3910	6024	+54	456	616	+35	11.6	10.2	−12
All Industries	53,942	62,289	+15	4045	3901	−4	7.5	6.2	−18

[1] Figures for 1900 from Twelfth Cen., *Mnfrs.*, Pt. II., pp. 548-54; for 1904, from Cen. *Mnfrs.*, 1905, Pt. II., p. 674 8. The percentages were computed by the writer.

A comparison between 1904 and subsequent years is found in the following statistics for fifty-six industries collected by the Bureau of Statistics and published in its annual reports.

TABLE XVI.

CHILDREN IN FIFTY-SIX INDUSTRIES, 1904-1908.[1]

	Average Total Employees	Average Children Under 16 Years		
		Number	Per cent of Total	Per cent Decrease of Proportion[2]
1904	147,488	6550	4.4	. . .
1905	165,499	6095	3.7	17.
1906	175,338	6188	3.5	6.
1908	181,822	5022	2.7	22.
				38.6[3]

[1] Compiled from *Repts. Bur. Stat. of Labor and Industry.*
[2] Computed by the writer.
[3] From 1904.

Reviewing this evidence leads the writer to the conclusion that the present age limit is observed to a very high degree. In the case of such a law as the one in question, there are many who will observe it as law-abiding citizens because it is the law. Others will obey it because they do not wish to take any chances whatever by disregarding it. Many others are willing to take chances, but with widely differing amounts of daring. The number of these who observe the law thus varies with the risk of incurring the penalty. Then there are, finally, those who study ways to evade the law. Considering all together, there is an increasing intensity of resistance to the law as one passes from the first named to the last named, and even from one to another in each class. Each new conquest for observance against this rising resistance is at the expense of an increased pressure for en-

forcement by the various elements in the state pressing toward that end. It is probably true to say that the resistance, and hence the compelling force necessary to overcome it, increases more than proportionately with each degree of advance toward complete observance. Now there is a limit to the expense which a state will incur in providing for and equipping a force of officers to carry out its policy, and there is a limit to the perfection of the personnel possible under existing political traditions and political habits of mind. In both these respects, as concerns the child labor law, New Jersey stands fully as well as any other state. Yet it would not be possible, with the present provision of numbers and quality, relatively excellent as it is, to secure and maintain a complete observance of the law. What alone is possible is to cut down the amount of illegal child employment to that irreducible minimum set by all the conditions of the time. That is the answer alike to those who would say there is no child labor in New Jersey and to those critics who complain that it is not yet entirely suppressed. The writer is not convinced that there is no child labor. That there is some is proven by the fact that it is necessary to discharge some children each year.[22] It is probable that there will always be some, because each new generation of factory children each year contains

[22] Each succeeding year a new group of children grow within chance taking distance of the age limit. Some of these are bound to take the chance of being caught, even though the work of inspection be at the best possible. A certain number of illegal cases, therefore, will be found and discharged each year. The record of discharges, according to the reports of the Department of Labor, is as follows:

1904-5	1905-6	1906-7	1907-8	1908-9
238	361	399	195	260

This, of course, is not the number illegally employed at any one time, but the number found during the year.

many whose parents will insist on trying their shrewdness against the enforcement of the law. But it appears that the observance secured has reduced the amount of child employment close to that irreducible minimum which must be accepted for the present.

Hours for Children.—Not so much attention has been paid to the enforcement of the provision on hours for children as to the enforcement of the age limit. This has been due to the policy of the commissioner of labor to take up one feature of the law at a time.[23] In the spring of 1908, however, the commissioner began a campaign to enforce this section. He sent a circular letter to each employer in the state calling attention to the law and informing him that the department proposed thenceforth to hold employers to the requirements of the section.

So far as the length of the regular working day is concerned, the law has been very nearly observed, without any action by the Department of Labor, because the ten hour day has come into almost general vogue. The violation of the law has been almost wholly in exceeding fifty-five hours a week and in employing children, with the rest of the working force, when running overtime. Yet even in these respects many employers had already adopted a schedule within the law and many others promptly complied with the law when it was passed. That there have been numerous violators through overtime employment is, however, certain. In the first year of the law, the Consumers' League of New Jersey found within a week's inquiry in the northeastern part of the state sixteen factories which were or had been recently violating the law.[24] Similar testimony was given the writer for other sections.

[23] See above, page 155.

[24] *N. J. Rev. Char. and Cor.*, IV, p. 155, June-July, 1905.

Since the action of the Department of Labor in 1908, there appears to have been a noticeable readjustment by manufacturers to comply with the law. The commissioner of labor says that manufacturers have responded to the requirements of the law very generally, though not without vigorous protest on the part of some against the fifty-five hour week.[25] As to that the commissioner took the ground that he had no authority to set aside the requirement but must exact it as long as it was in the law. All the protesting employers accepted the situation. This statement as to recent compliance is corroborated by much that the writer heard in different parts of the state. He found a number of manufacturers who said they had adjusted their work so as to dismiss all children at the end of the prescribed limit of hours. Several manufacturers, who could not make a satisfactory adjustment of that sort, entirely dispensed with all help under sixteen years. Similar testimony was obtained from employees. All of this points to a very general observance of the law. Yet there do not lack complaints of intermittent violation under the stress of urgent orders requiring overtime work.

The limitation of weekly hours and night work for children in mercantile employments received no attention from the Department of Labor for a while because, in the opinion of the commissioner of labor, the force of inspectors was inadequate to carry successfully the additional work that law would require,[26] and because there was a

[25] See below, p.

[26] *Rept. Dept. of Labor*, 1907, p. 8; 1908, p. 12. Two new inspectors, one a man and one a woman, were authorized in 1908. But the man was not appointed until June and then had to take the place of an old inspector who had been inactive for a time on account of poor health. The woman was not appointed until September.

prospect that a more comprehensive bill affecting child labor in mercantile employment would be introduced at the next legislature. In his report for 1908, the commissioner announced that he was prepared to take up the enforcement of this law.[27] In his report for 1909 he writes that he found "very little violation" of the fifty-eight hour limit for the week, but that on the one day a week when the limit is extended to nine o'clock[28] there is a tendency to stretch the hours to ten-thirty. The writer frequently met the opinion a year and a half ago that the larger establishments conform to the law without pressure, but that smaller firms offended grievously by employing children under sixteen late in the evening. He was not able, however, to check up the observance of the law on his own account. The enforcement of this law will meet great difficulties from the smaller stores. . To watch every corner grocery and dry goods store during the evening would keep the whole force of inspectors busy. It is doubtful if this law can secure a wide observance unless local public sentiment gives constant assistance to the department.

Health and Safety.—There is little to be said on the observance of special provisions for the health and safety of children because those provisions are so few and so general. The protection actually enjoyed by children comes almost wholly through the general provisions for the health and safety of factory employees.

Compulsory Attendance.—From newspaper accounts and from more deliberately prepared items in the reports of the Superintendent of Public Instruction and in the New Jersey *Review of Charities and Corrections,* it appears that the more intensive activity to enforce

[27] Page 12.
[28] See above, p. 89.

the law has brought a correspondingly increased attendance at school. This can be said without qualification. But the improvement in attendance has not been any more than corresponding to the efforts at enforcement. The results have been greatest, naturally, where the efforts were greatest. If an attempt be made to state an average result for the whole state, the most that can be said is that those children who get on to the school rolls, either voluntarily, or through report of the Department of Labor as having been discharged from the factories, or because they happen to run afoul of the truant officer, are kept in regular attendance. But, with a very few notable exceptions, there has been little serious endeavor to hunt up children within the compulsory age to get them onto the rolls and keep them in attendance. The situation, however, is gradually improving. It may be said, by way of summary, that New Jersey has set a rather advanced standard for school attendance and is slowly moving over the long road toward that distant goal. But, as yet, one can find all degrees of backwardness in seriously setting out on the journey, which is truly no Sabbath day's journey for many communities.

CHAPTER X

SUMMARY AND PRESENT OPINION

During the period from 1883 to 1904 there was expressed for the first time a measurably strong and persistent sentiment for the restriction of child employment. Yet it lacked much in knowledge of its task, in steadiness, and in universality. This will appear from a consideration of the attitude toward the policy of different elements of the public. Beside the children themselves, the most directly interested were the employers and the parents of the children affected. There has already been noted the opposition from interest which was displayed by employers during the legislative history of the law. This antagonism, with much annoying indifference, continued to be shown by many of them to the law in operation. The first report of the factory inspector said that some manufacturers had complied with the requirements of the law on receipt of his notice calling their attention to it, but many of them had treated his warning with indifference. Some said other labor laws were not enforced, hence they did not expect this to be. Others said they were violating the law at the solicitation of parents and guardians. Quite a number expressed approval and sympathy with the law, but feared it would not be enforced uniformly and so disregarded it themselves. The inspector said these were very pronounced in their position.[1] After two years the inspector found the attitude more hopeful, for he reports that he met among employers "as a rule, a dis-

[1] *Rept. Insp. Fact.*, 1883, p. 4.

position to obey the laws."[2] Yet, notwithstanding the many expressions of approval, there is noticeable among employers during these early years an utter lack of sympathy with the object of the policy and open dissension from the project. There was a want of sensitiveness to the plea for the conservation of the adult's resources in his childhood. There is nothing in the present attitude toward child employment to be more remarked than the difference between the instinctive position of the employer of today and that of the employer of a quarter of a century ago.

Equally insistent, though far less influential, dissenters were the parents of children affected by the law. Expressions of this opposition are found in the early reports of the Bureau of Statistics. The inspector also records their protests. This was not universal among parents, however. For among the protests are found numerous expressions of approval even by some who would find the earnings of their children a great help in maintaining the family.

Another group of dissenters, but without direct interest, was those who pleaded the necessities of the poor. In the absence of any other known and practicable means for contributing to the support of the children affected, or of their families, this consideration took hold of a large number of people of the day. This group was probably larger than either of the others, but was not nearly so assertive.

Against this opposition the state committed itself to the policy of restricting child employment. But this it did chiefly under pressure from the labor organizations.[3]

[2] *Rept. Insp. Fact.*, 1885, p. 26.

[3] This seems to be indisputable, although the writer has not succeeded in finding much material bearing directly on the point. None of the publications of the labor organizations appear to have been preserved in any place of access anywhere in New

Aside from those, the writer found no evidence of organized agitation in support of the policy. The sentiment of the public in general seems to have been without leadership of its own. It is extremely doubtful whether it would have developed the resolution and organization needed to embody itself in a policy of the state if it had not been for the leadership, however imperfect, of the labor organizations. It was they that were most instrumental in stirring up the agitation to which the general sentiment lent sometimes its support, sometimes merely its approval. It was responsive to an agitation for a declaration of policy but not to the unemotional pleading for constant pressure on the administrative department to carry through the purpose of the enactment. Its resolution was strong when the principle was at issue, but when the excitement of contest was over, its will power was weak in the commonplace, day to day drudgery and antagonisms of seeing that concrete conditions conformed to the principle. Such enterprise in the enforcement and such success in results as was shown in the first half of the period was due almost entirely to the fact that the chief inspector and his first assistants were fully in sympathy with the policy they were supposed to enforce. When the state government changed its political faith about midway of the period,

Jersey, and several labor leaders consulted knew of no one having them. But a few newspaper notices of the leading part taken by labor officials, some entries in the legislative journals, testimony in the early reports of the Bureau of Statistics, the fact the first inspector credited much of his assistance to the labor organizations, the traditions still current and the want of any contemporary evidence of any organized activity by other groups all point to the leadership of the labor unions. This was quite probable because the organization of the Knights of Labor in New Jersey dates from the last of the seventies, and the present State Federation of Trades and Labor Unions had its origin in 1879.

the public interest was not sufficient to insist that the inevitable change of inspectors should be made without sacrifice of efficiency. For the rest of the period, the chief inspector lacked aggressiveness and interest, and the deputies' positions were filled solely with regard to political exigencies. The labor organizations kept up a protest and attempted to secure an improvement. But organized workmen were now much less politically important and could do nothing without the support of the public at large.

When put into a consecutive statement, these shortcomings fill the view of the policy during the period before 1904. But they should not be allowed to obscure the fact that the policy did have considerable force while in the hands of a sympathetic and willing department for enforcing it, and that success to an important degree was realized. To the positive side of the account, therefore, should be credited the force of precedent, continued through twenty years, in all the elements of the standard of the policy and in the maintenance of a force of inspectors for enforcing it. There was also the stimulation from the taste of success during the first part of the period. All this inheritance enabled the advocates of the policy during the next period to set out from a more advanced position than would otherwise have been possible.

The present laws affecting the employment of children stand in striking contrast to those which preceded in respect to the deliberation and careful consideration of all interests with which they have been framed. This is due to the manner in which they were drawn. Previously, the various advocates of such legislation presented bills to the legislature, each embodying the special idea of its originator without necessary reference to or

consistency with the other measures or with existing laws. Also, most of those who drew such bills had no knowledge of the technique of administering the policy they advocated, or of the economic consequences of such laws, and, therefore, of the points where obstacles to the success of the policy would appear. A similar lack of knowledge of the business problems of employers prevented them from giving due consideration to the claims of those whose interests would be closely affected by the policy. These unrelated bills had to be hammered together in legislative committees. There the opposition of interested parties, intent only on protecting themselves, and inconsiderate of the social interests urged in support of the bills, added to the difference between the original proposals, inevitably prevented the construction of a well considered and consistent measure.

In the case of the act of 1904, the powerful public sentiment pressing for a more effective policy was as much divided as ever on the details of the law by which to realize such a policy and in its practical knowledge of the technique of such legislation. Moreover, powerful interests were intrenched in the legislature. In this case, however, the state administration was aggressively in support of the purpose of the agitation. The strategic advantage of the Governor in pressing legislation enabled him to provide a point of convergence where the different elements of the public sentiment could meet and reduce themselves to agreement with ample deliberation before going to the legislature to press their policy. It also permitted a full statement of the claims of employers and others in interest to be brought to the consideration of the advocates of the law before they committed themselves on details of the measure. Much opposition in the legislature was thereby forestalled and many de-

mands, productive of contention and bad spirit, were checked. Then also, the reduction into legal form of the points of compromise and adjustment was done by a lawyer with full consideration of legal consistency and constitutionality. When the bill, framed up in such a manner, was presented to the legislature, the advocates could join with the Governor in urging it and in opposing any amendments. Its passage without substantial change is due chiefly to this united support of the original form of the bill.

The attitude of various classes toward the laws affecting the employment of children is generally favorable. When the law was passed, there was much fear on the part of many employers that the use of older children would seriously increase their costs. This has not been the result as a rule. Many employers interviewed confessed that their early judgment of the effect of the law was erroneous. Few of them found that the displacement of the children under fourteen by older children had any important effect on their business. The only important exception to this found by the writer was in the glass industry, where almost every official interviewed said that the law had most seriously interfered with the business. Most of them, however, have adjusted themselves to the change and now accept the law with approval, although it still creates a scarcity of boys. The employers throughout the state, as a class, especially the larger ones, look upon the policy of the state approvingly and are desirous of obeying the law implicitly. Antagonistic opinion is found for the most part only among petty employers and subordinate bosses in large establishments. Yet there are some employers who frankly say they believe early employment for most children is the best discipline for them, is unharmful, and ought to be permitted.

Such opposition as appears by employers to the age limit is directed mainly at the form of evidence required for children and at the trouble incidental to being careful that a child has the proper documents. This has already been discussed. Another point of opposition is the fifty-five hour week for children under sixteen. This has been severely challenged by many manufacturers. In the case of those whose product is subject to a very seasonal demand, a great inconvenience is encountered because of the law. Their customers must be accommodated in rush seasons or orders will be taken away in other seasons. And the most practicable way to fill rush orders is by working overtime. Larger plants could be provided, though at an increased proportionate cost of investment, especially during those seasons when running far below the enlarged capacity. A more difficult obstacle is met in the inelasticity of the labor supply and in the increased labor cost of new employees, due partly to the lower efficiency frequent among those available at the time, and partly to the less developed organization possible with new hands.

But in the opinion of one large employer of children, the source of the opposition to this law is much more in the ambition of manufacturers to enlarge their business than in the exigencies of seasonal demand. Many of the opponents of the law are not subject in their business to much variation in demand on account of seasons, and the most open expression of opposition has been against the restriction of the fifty-five hour week, which does not permit New Jersey manufacturers to run as much time as competitors in other states. In Pennsylvania, the nearest competing state, the week allowed for children is sixty hours. That amounts to a difference of one month in a year, or, as the New Jersey

complainants put it, to one-twelfth less business possible to them than to manufacturers in Pennsylvania.

The law is defended as against this opposition as being a necessary restriction in the interest of children to which industry must adjust itself, just as it has to adjust itself to other conditions uncontrollable by manufacturers. The interest of the manufacturer in the more or less of his business and of his profits must effect a compromise with the interest of the children whom he employs. The latter, as well as the former, must be given consideration in his calculations according to its importance. If that entails sacrifice of business, it must nevertheless be accepted and taken for granted just as he accepts limitation of business from other uncontrollable factors affecting his enterprise. This defense must be conceded by everyone who is at all sensitive to the injury which unlimited hours of labor bring upon children. But a point of dissension remains in the question as to how much consideration each interest deserves. Most manufacturers are bound to value their interest unduly and most advocates of the child's interest are bound to overweigh his need of protection or have a too ambitious idea of the rapidity with which industry can be adjusted to their standards for protecting the interest of the children.

One attempt has been made to organize the employers' opposition to the law. When the commissioner of labor took up the enforcement of the fifty-five hour section of the law in the spring of 1908, the board of trade of Camden sent out in June a circular to the other boards of trade throughout the state to feel the temper of employers with reference to an agitation to change the law. It proposed to raise the question not only of hours, but also that of "some other of the obnoxious features of the

present law, such as the requirements of birth or baptismal certificates, passports, etc." If the replies warranted it, the president of the board of trade was authorized to call a conference of employers for the purpose of framing a law "which will be equitable and fair to employee and employer, to be submitted to the next legislature."[4] By October of 1908 only one reply had been received to the circular, and that was simply an acknowledgement of its receipt by the secretary of another board of trade.[5] Apparently the employers of the state as a whole did not feel the burden of this section enough to resist it. This opposition, however, is by no means vanished. It has again appeared in connection with the newly organized Manufacturers Association of New Jersey.[6]

The attitude of the parents of children is divided. Those of the poorer wage earners very largely resent the interference with their power over their children. This sentiment does not secure much public expression, though occasionally it appears in some form.[7] The plea is usually the necessities of poverty or large families. Many parents with better incomes also disapprove of the law, not because of family necessities but because they believe in a child, especially a boy, getting to work early. Going to school until fourteen years of age is to them foolishness. They also plead the hardships of poorer families. Other of the more comfortable parents accept the law on the ground of public policy. Organized

[4] Circular of Camden Board of Trade.

[5] Secretary of Camden Board of Trade to the writer in an interview.

[6] *Paterson Guardian*, Jan. 24, 1910.

[7] Unsigned letter from a workingman to a Paterson newspaper, reprinted in the *Boston Traveler*, Apr. 24, 1906.

labor, especially in its corporate expression of opinion and action, is in hearty approval of the law.

The general public is in thorough accord with the law. There can be no mistake about that. There are, however, many persons who take exception in varying degree to the present form of the law. The most important exception is to the lack of provision for families in poverty. This has already been noted. Less commonly met with is the feeling that there ought to be a wider choice of evidence of age open to parents. This has in mind only the forms specified in the law. It overlooks the unlimited choice of evidence that may be submitted to the commissioner of labor in support of an application for a permit. This matter also has been already discussed. The newspapers for the most part support the policy, although some are half-hearted about it. Some, also, approve the policy as an ideal to work toward, but think the present law is in advance of a just regard for all elements in the present situation.[8]

The aggressiveness and alertness of public opinion in favor of the policy is seen in the constant agitation for an extension of the law and in the quick detection of bills that would, designedly or otherwise, weaken it. The circular of the Camden board of trade immediately provoked newspaper attention and adverse comment and started the reorganization of the Children's Protective Alliance, so as to be prepared to meet the threatened reactionary movement.[9] In the 1909 legislature, a weakening measure was watched by friends of the present law, although it made no progress. Altogether it appears entirely probable that public sentiment is much

[8] For a good statement of this point of view, see a carefully written editorial in *The Trenton True American*, Dec. 10, 1906.

[9] *Newark Evening News*, June 20, 1908.

too virile to permit any weakening change in the law, although it has not been strong enough to carry through some of the extensions most desired by it.

There is agitation to extend the present policy to features of child employment not now affected by it. In most of these cases, the omission was deliberately made from the act of 1904 by Mr. Swayze for fear of jeopardizing the constitutionality of the measure. One of these features was an educational minimum to supplement the minimum age limit. This was strongly urged by many advocates. Against it was urged the practical problems of effective administration which have perplexed officials everywhere. Also was raised especially the question of the constitutionality of including an educational requirement in a factory law and the fear of in some way provoking friction between the school authorities and the inspectors. The administrative features of such a minimum requirement did not appear to the framers of the law to be sufficiently worked out. The omission has been severely criticised and discussed with reference to amendment of the law . But no vigorous and concentrated effort has been made to secure the change.

Another omission from the act of 1904 was that of mercantile and other employments from the operation of the law. This, too, was for fear of unconstitutionality. It was questioned whether the application to these employments could constitutionally be made in an act designed and entitled for the regulation of factory employment. Efforts have been made, as related, to make this extension by separate enactment, though not yet with success. The discrimination in the law, as it is, is frequently complained of by factory employers and admitted by advocates of the child labor policy of the state. There is a very general opinion indeed that the law should

apply to these other employments. But it has thus far lacked the enthusiasm necessary to press a bill through the legislature.

Another measure, frequently talked of but not yet systematically agitated or submitted to the legislature, is a centralized state force for administering the compulsory attendance law. This is the only means to a uniform observance of that law. But the difficulties in the way of such a scheme are many. At present, anyway, public opinion is not ready for such a move.

Excepting a few leaders among the trade unionists and philanthropic and civic societies, the aggressive interest in child labor legislation appeared, until the last legislative session, to have fallen off. The public, although sensitive to any attack on the present policy, appeared to be relaxed from the militant activity of a few years ago. Since then problems of the control of corporations and of governmental reforms have come to engross attention. Yet the interest in the extension of the child labor policy was latent and needed only an occasion to stir it to aggressive action. Such an occasion was presented in the form of the recent campaign for the bill against night employment which generated sufficient pressure to push that measure through. But public sentiment could not yet stir itself enough to include children in mercantile employments under its child labor policy.

The situation should properly be differently described. The child labor opinion of the people of New Jersey is not, truly speaking, declining in vigor. Recent events show that it is growing with that healthy, steady growth which gradually widens its understanding of the problem it has attacked and quietly accumulates strength for each extension of its policy. What appear to be lapses

into impotence are but the intervals of accumulating power after each conquest of strength. When its impatient leaders call upon it too soon to take a next step, it fails. It appears to be weakening. But in time it grows to the measure of the demands upon it. The proper criticism of the sentiment in New Jersey is not that it is disappearing, or that it is intermittent. The only criticism in point is that pertaining to its present attainments. Compared with a state like Massachusetts, New Jersey is not yet as sensitive to the needs of the problem it is called upon to deal with. But this criticism is mitigated in great part when it is considered that it became aware of the problem at all, in a state wide sense of awareness, only a half dozen years ago. Comparisons as to the rate of growth and thoroughness of such work as has been accomplished place New Jersey very high among the states of the Union. This suggests, however, another criticism, namely, that New Jersey people were far too long in becoming cognizant of the problem that was shaping itself among them.